



THE FOUNDATIONS OF THE KNOWLEDGE OF USUL

A Translation of the Text
'Al-Usūl min 'Ilm al-'Usūl'

by the Noble Shaykh
Muhammad bin Sālih
Al-'Uthaymīn

5 PILLARS PUBLISHING

الأصول من علم الأصول

THE FOUNDATIONS OF THE KNOWLEDGE OF USŪL

BY
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بسم الله الرحمن الرحيم

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AUTHOR'S INTRODUCTION



All praise is due to Allah; we praise Him; seek His help and forgiveness; we repent to him; we seek refuge with Allah from the evils of ourselves and the evils of our actions. For whosoever Allah guides none can misguide and whosoever He misguides none can guide, I bear witness that there is no true god but Allah alone with no partner and I bear witness that Muhammad is His slave and Messenger, may Allah's peace and blessings be upon him, his family, his companions, and those who follow them until the Day of Judgment.

To proceed, this is a brief treatise in the principles of jurisprudence that I have written in accordance to the prescribed curriculum for the third year of high school in the institutes of Islamic Knowledge and I have called it "**The Foundations of the Knowledge of Usūl**".

I ask Allah to make our actions purely for Allah and beneficial to the slaves of Allah; He is ever close, the Responder.

USŪL UL-FIQH



The definition of Usūl ul-Fiqh is understood in two ways:

Firstly with regards to the first component 'Usūl' and the second 'Fiqh'.

'Usūl' is the plural of the word 'asl' and it means whatever can have something else built upon it; from that we have the 'asl' (foundation) of a wall which is in essence its base; likewise, the foundation of a tree which has many branches sprouting from it. As Allah the Most High says:

﴿ أَلَمْ تَرَ كَيْفَ ضَرَبَ ٱللَّهُ مَثَلًا كَلِمَةً طَيِّبَةً كَشَجَرَةٍ طَيِّبَةٍ أَصْلُهَا ثَابِتٌ وَفَرْعُهَا فِى ٱلسَّمَآءِ ﴾

'Have you not considered how Allah presents an example, [making] a good word like a good tree, whose root is firmly fixed and its branches [high] in the sky?' (14:24)

'Fiqh', linguistically means understanding, as is the case in the statement of Allah the Most High:

﴿ وَٱحْلُلْ عُقْدَةً مِّن لِّسَانِى ۝ يَفْقَهُوا۟ قَوْلِى ﴾

'And untie the knot from my tongue. So that they may understand my speech.' (20:27-28)

And its use in the science of jurisprudence is: **knowledge of the rulings of the Shariah along with their specific evidences.**

The meaning of the word 'ma'rifah' is knowledge and conjecture; because rulings of fiqh can be perceived with certainty or speculation, as is the case in many issues of fiqh[1]

The meaning of the words 'legal rulings' (al-ahkām as-shar'iyyah) is: rulings derived from the legislation, such as the obligatory or prohibitive nature of something, so from this is excluded rulings based on intellect; such as the knowledge that the whole of something is always bigger than any individual part, also general rulings like rain falling during a clear wintery night.

The meaning of the word: 'process' (al-'amaleyyah) is whatever is not connected to beliefs, such as the prayer and zakat, so from this we can exclude all those things which are connected with beliefs; such as **Tawhīd** and knowing the

[1] The Shaykh said: 'And due to this we said that ma'rifah gathers together knowledge ('ilm) and conjecture/speculation (Adh Dhann). This is because many of the rulings in fiqh issues are specualative (in nature)' till his words: 'So if it is said: "How is it correct for you to say this when Allah says: **'Indeed you only follow conjecture,'** (6:116) and: **'Indeed some conjecture is sin,'** (49:12) and Allah rebukes those who follow conjecture?" We say: If the speculation is built upon ijtihād then this is what men can be capable of. Allah says: **"Allah does not burden a soul with more than it can bear,"** (2:286) and due to this the Prophet ﷺ said: **"If a ruler makes ijtihād and is correct he gets two rewards and if he is mistaken he gets one reward"**...till his words: 'The conjecture that is censured is that which is not based upon any foundation. For example, that a man comes to a common person and asks him: What do you say concerning this, is it permissible or forbidden? So He says: 'I think it is forbidden'. So this is not permissible (to do). But if a man who is a mujtahid contemplates and reflects upon the evidences and then his speculation is dominated towards (the conclusion) that this (particular) saying is the preponderant opinion, then there is no harm in this. This is because this one has done his upmost.' (Sharh Usūl Min Ilm Al Usūl pg 28)

names and attributes of Allah, so none of these things are called fiqh in jurisprudence.

The meaning of the words: 'specific evidences' (al-adillah at-tafsīleyah) is: evidences of fiqh that are coupled with detailed matters of fiqh, so from this (definition) we can exclude Usūl ul-Fiqh itself, because its scope is limited to the general evidences of fiqh. Secondly, with regards to it being a label for this particular science, then it is defined as: a knowledge where the evidences of fiqh are determined in general and how they are to be benefitted from and the condition of the beneficiary.

The meaning of the word 'generality' (al-ijmaliyyah) is: general rules, such as the saying: commanding indicates obligation and forbidding indicates prohibition, and good health requires [that whatever has to be implemented] be implemented.

So from this [definition], we can exclude specific evidences, as they are not mentioned in Usūl ul-Fiqh except by way of giving an example for the rule.

The meaning of the words 'and how to make full use of them' (wa kayfiyat ul-istifadata minha) is: knowledge of how to allow the rulings to make full use of the evidences by studying the words and their implications, [distinguishing] the general from the specific, the restricted from the unrestricted and the abrogated from the abrogating and other than that; so by virtue of his insight the faqih can benefit from the evidences of fiqh and the rulings.

The meaning of the words 'condition of the beneficiary' (hāl al-mustafīd): if the beneficiary is a Mujtahid then he is named as such due to his benefitting from the evidences because he has reached the level of a Mujtahid, so knowledge of the Mujtahid and the conditions of Ijtihād and its ruling return to Usūl ul-Fiqh.

The Benefits of Jurisprudence

Usūl ul-Fiqh is a noble science, of the utmost importance, immensely rewarding, (by which one is) able to obtain a capacity to extract legal rulings from evidences on a sound footing.

The first person to make this an independent science was Imam ash-Shafi'i Muhammad Ibn Idris, then many other scholars followed him in that and authored many books, which ranged from prose, poetry and brief and long volumes until it became an entity in its own right with discernible features.

RULINGS (AL-AHKĀM)



'Al-Ahkām' (rulings) is the plural of hukm and linguistically means a judgment, **which has been necessitated by the speech of the legislator relating to the actions those burdened with carrying out the obligations of the legislation (al-mukalifin) are mandated, either by request, or choice, or state.**

The intent behind our saying 'the speech of the legislator' is: the Quran and the Sunnah.

The meaning of our words 'relating to the actions of those burdened with carrying out the obligations of the legislation' is: what is connected to actions, whether in word or deed, to do something or leave it. So this excludes whatever is associated with belief, so it is not called a ruling with regards to this terminology.

The meaning of our statement 'al-mukalifin' is: whoever is included by the process of being burdened to fulfil the obligations of the legislation, which excludes the young and the insane.

The meaning of our statement 'mandated' (talab) is: commands and prohibitions, whether it be by way of obligation or preference.

The meaning of our word 'choice' (takhyīr) is in whatever is permissible, and what is meant by our word state (wad') is: what is correct or otherwise as dictated by the Legislator through signs or descriptions which are to be implemented or cancelled.

The Types of Rulings in the Shariah

The types of commands (in the Shariah) fall into two categories: Taklīfiyah and Wad'īyah.

The Taklīfiyah are five: wajib (obligation), mandūb (encouraged to undertake), muharram (prohibited), makruh (disliked) and mubah (permissible).

1 – Wajib: linguistically means what has fallen or what is compulsory. Technically it means: what the legislator has ordered as a matter of obligation, like the five daily prayers.

So excluded from our statement 'what the legislator has ordered' is what is forbidden, disliked and permissible. And also excluded from the statement 'by way of obligation' is that which is only encouraged (mandūb).

Therefore something wajib is that which if carried out will bring reward for the one carrying it out, and the one that fails to do so deserves to be punished. It is also called Fard', farīdah, hatam and lāzim.

2 – Mandūb: linguistically means something or someone appointed or designated. Technically it means: what the legislator has ordered but not by way of obligation (recommended), such as supererogatory prayers.

So what is excluded from our statement 'what the legislator has ordered' is whatever is forbidden, disliked and permissible. And what is also excluded from our statement 'not by way of obligation' is that which is wajib.

So when something is mandūb, the doer is rewarded for carrying out the action, and not punished for leaving it. It is also called Sunnah, masnūn, mustahab and nafal.

3 – Muharram: linguistically means: forbidden and technically it means: what was forbidden by the legislator as an obligation to avoid, such as disobedience to parents.

So what is excluded from our statement 'forbidden by the legislator' is: wajib, mandūb and mubah (permissible). And what is also excluded from our statement: 'an obligation to avoid' is that which is disliked.

So when something is muharram (forbidden), it means the one who leaves it is rewarded and the one who commits it deserves to be punished. It is also known as Mahzūr or mamnū'.

4 – Makrūh: linguistically means: Something hated. And technically it means: what was forbidden by the legislator not by way of it being obligated to abandon, such as taking and giving with the left hand.

So what is excluded from our statement: 'forbidden by the legislator' is wajib, mandūb and mubah.

And what is also excluded from our statement 'not by way of obligation' is that which is Muharram (forbidden).

And when something is makrūh, then the one who leaves it out of compliance (of the legislation) is rewarded, but the one who does the action is not punished.

5 – Mubah: linguistically means something declared or permitted to do. And technically it means: what is not connected with a command, or not something prohibited in and of itself, like eating during the nights of Ramadan.

So what is excluded from our statement 'what is not connected with a command' is that which is wajib and mandūb (recommended.) And what is also excluded from our statement: 'not something prohibited' is whatever is muharram (forbidden) and makrūh (disliked). And what is not included by the saying 'in and of itself' is anything which is connected to a command therefore being a medium, which would then itself be commanded, or something forbidden would also act as a medium to something which would also be forbidden, and that would not take it out of the original state of mubah (permissible).

And something is mubah (permissible), as long as the description is one of permissibility, then it will not result in reward or punishment. And is also called: Halal and jā'iz.

Rulings of Wad'īyah

The rulings of wad'īyah are that which the legislator has placed signs for, to prove (its validity), or absence of, or

implementation or cancellation, and from which is valid (sahih) or invalid (fāsid).

1 – Sahih: linguistically means: something free of disease. And technically it means the effects resulting from an act of worship or a contract.

So sahih (valid) acts of worship are acts that fulfil the responsibility by meeting the requirements.

And what is sahih (valid) regarding contracts is that the effects of it are directly affected by its existence, such as the relationship between property and the contract of sale for example. So nothing can be valid until it meets the necessary conditions and is free of any obstacles (preventing it from being valid).

For example, part of worship is to perform the prayer on time fulfilling all the conditions, pillars and obligatory steps. And an example of contracts is to have a contract of sale fulfilling all the known conditions without anything that would stop it being a valid contract. So if one of these conditions is not present, or an impediment is present, it prevents it from being valid.

An example of that is the condition of worship: to pray without purification. And an example of that in contracts is the absence of a requirement in the contract such as selling that which one does not have.

An example of the presence of an impediment in worship is to offer supererogatory prayers at a time of prohibition. And an example of the presence of an impediment in

contracts is to sell something during Friday prayer after the second call in a way that is not permissible.

2 – Fāsid: linguistically means something that has been lost or is at loss. And technically it means: the effects that do not result from an act of worship or a contract. Therefore the fāsid (invalid) acts of worship are those that do not fulfil the obligation, so the demand is not met, such as praying before the correct time. And fāsid (invalid) contracts are those that have no effect, such as selling something unknown.

All corrupt acts of worship, contracts and conditions are harām (forbidden); because that is transgressing the limits of Allah, and taking His verses as a mockery, because the Prophet ﷺ forbade stipulating conditions that are not in the Book of Allah.

Fāsid (invalid) and bātil (false) have the same meaning except in two instances:

1. In Ihrām: fāsid is what the person in Ihrām treads on while in Ihrām before the first constraints of Ihrām are lifted, and 'bātil' (falsehood) is if he denounces Islam whilst doing it.
2. In marriage: fāsid is whatever the scholars differed in as being corrupt or not, such as marriage without a guardian, and bātil is what has been unanimously agreed upon such as the false nature of marriage of a widow or a divorced woman in her waiting period.

Knowledge



The definition of knowledge is **the perception of something for what it really is and being firmly aware of it, such as knowing that the whole is greater than the part, and that the intention is a requirement for worship (to be accepted).**

So what is excluded from our words: 'the perception of something', is the lack of the complete awareness of something, which is called jahl basīt (plain ignorance), such as someone being asked: 'when was the Battle of Badr?' and he replies: 'I do not know.'

And what is also excluded from our words 'what it really is' is to perceive something different from what it really is, this is called jahl al-murrakab (compounded ignorance), such as someone being asked: 'when was the Battle of Badr?' to which he replies: 'in the third year after migration.' [When in actuality it was during the second year after the migration].

And what is also excluded from our words 'firmly aware of it' is the perception of something in a non-assertive way, so it is likely to be different from the way it was perceived, then that is not called knowledge. Then if he prefers one over the other possibility then it is referred to as dhann and the other possibility as waham, and if both are thought to be the same then it is called Shakk (doubt.)

And this shows that the perceptions of things are attached to the following:

1 – **Knowledge**: the perception of something for what it really is and being firmly aware of it.

2 – **Plain ignorance**: a lack of awareness in the totality of something.

3 – **Compounded ignorance**: a perception of something in contravention to what it really is.

4 – **Dhann**: a perception of something with the prospect of it being against a less correct view.

5 –**Wahm**: a perception of something with the possibility of it being against the most correct view.

6 –**Shakk**: a perception of something with the possibility of it having something equally correct opposing it.

CATEGORIES OF KNOWLEDGE

Knowledge is divided into two parts: the essential and the theoretical.

1 – **Essential** (knowledge) is that the thing known is essential whereby a person can't help but know it without the need to look for it or try to extrapolate it, such as the knowledge that the whole is greater than the part, and that fire is hot, and that Muhammad is the Messenger of Allah.

2 – **Theoretical** (knowledge) is what needs to be considered and looked into, such as knowledge that the intention is necessary in the prayer.

SPEECH (AL-KALĀM)



The definition of speech linguistically means: a word that has been placed with a particular meaning.

And technically it means: a beneficial word/phrase, such as: Allah is our Lord and our Prophet is Muhammad.

The least speech consists of is two types of nouns, or a verb and a noun. The first example: 'Muhammad is the Messenger of Allah', and the second: 'Mohammed remained steadfast.'

A single unit of speech is a word and it is: the word that has been placed with a particular meaning, being either a noun, verb or particle:

A – The Noun: A word that gives a meaning in itself without any element of time. It is of three types:

1. What signifies generality such as relative nouns.
2. What signifies an absolute (unrestricted) sense such as nakirah (indefinite) in an affirmative context.
3. What denotes the specific such as signs and distinguishing characteristics.

B – The Verb: A word which indicates a meaning by itself, and according to its form contains one of the three tenses: the past tense such as (fahima), the present tense such as (yafhamu), or the imperative such as (ifham). So the verb with all its types signifies no restriction but not generality.

C – The Particle: A word that denotes a meaning in other than itself, including the following particles:

1. Waw (و): It is used as an attraction showing association between two items (of attraction) in ruling, it does not however constitute order, nor does it negate it except with a proof.
2. Fa (ف): It is used as an attraction showing association between two items (of attraction) in ruling with sequence and immediate order, it is also used as a causative particle showing purpose.
3. Genitive Lam (ل): The meanings include: reasoning, ownership and permissibility.
4. Genitive 'Alā (على): The meanings include obligation.

Parts of speech

Speech is divided with regards to its potential of being truthful or not into two parts: al-khabr (news) and insha (that which is established):

1 – Al-Khabr: That which can be described as truthful or untruthful in and of itself. What is excluded from our statement 'that which can be described as truthful or untruthful' is: 'al-insha' because it isn't possible, its significance is not informed of until it can be said it is a truth or a lie.

And what is also excluded from our statement 'in and of itself'; is that which has no possibility of being truthful, or is untruthful with regards to what it is being informed of, that

is because the news with regards to what it is being informed of is of three types:

1. What cannot be described as lying; such as the khabar (information) from Allah and His Messenger ﷺ that is established from them.
2. What cannot be described as honest; such as the news that is impossible both in the legislation or intellect; the first example of which is the news of someone who claims messengership after the messenger of Allah ﷺ and the second, the news of two opposing things coming together such as movement and being still at the same time.
3. What can be described as truthful and untruthful either equally, or with a preference of one of them, such as the news that a person absent is arriving and the like.

2 – Al-Insha (what has been established): What cannot be described as truthful or untruthful, from which are the commands and prohibitions. As in the saying of the Most High:

﴿ ۞ وَٱعْبُدُوا۟ ٱللَّهَ وَلَا تُشْرِكُوا۟ بِهِۦ شَيْـًٔا ﴾

'Worship Allah and associate nothing with Him.' (4:36)

Speech can be both khabar and insha in two ways: in the wording of a verbal contract such as 'I sold and accepted (something)' so this with respect to what the intent of the contractor is would be a *khabar*, but a consequence of the contract is *insha.*

Speech comes in the form of news but what is meant is insha and vice versa for a benefit.

The first example: the statement of the Most High:

﴿ وَٱلْمُطَلَّقَٰتُ يَتَرَبَّصْنَ بِأَنفُسِهِنَّ ثَلَٰثَةَ قُرُوٓءٍ ﴾

'The Divorced women should remain in waiting for three periods.' (2:228)

So the statement 'they should wait for three periods' is in the form of news and what is intended by it is a command, the benefit of that to emphasize the action of the one being commanded as if He is ordering what is the reality, mentioning it as a description from the descriptions of that which is commanded.

An example of the opposite is the verse:

﴿ وَقَالَ ٱلَّذِينَ كَفَرُوا۟ لِلَّذِينَ ءَامَنُوا۟ ٱتَّبِعُوا۟ سَبِيلَنَا وَلْنَحْمِلْ خَطَٰيَٰكُمْ ﴾

'And those who disbelieve say to those who believe, "Follow our way, and we will carry your sins."' (29:12)

His statement: 'we will carry' is in the form of an order but what is intended by it is to inform only, the benefit of that being to place something which is being informed at the status of something imposed and binding.

Truth and metaphor

Speech is divided in terms of usage to reality and metaphor.

1 – Reality is the word used for the meaning it has been placed for, such as the lion for a predatory animal.

So what is excluded from our statement 'used for': is something neglected, this is not called reality or a metaphor. And what is also excluded from our statement 'placed for' is the metaphor.

Reality is divided into three sections: linguistic, legal (in the Shariah) and customary.

Linguistically, refers to a word used for the meaning it has been given in the language. And what is excluded from our word 'linguistically' is the legal and customary. For example, the prayer (salah) linguistically means supplication, so that is the meaning the people of the language give it.

Its legal reality is the meaning given to it by the Shariah. So what is excluded from our statement: 'by the Shariah' is customary or linguistic reality. An example of that is the prayer, its legal reality is words and deeds that begin with the takbīr (opening act) and end with the taslīm (closing act) so this is what the people of the legislation place on this word.

The customary reality is: a word used for the meaning placed on it by the customs of people. So what is excluded from our statement 'custom' is a linguistic and legislative reality. For example: a 'dābah' its reality in the traditional sense is that of a four-legged animal, so that is the meaning that it carries in the custom of the people.

And the benefit of knowing this fact, that the reality (of words) is divided into three types is that we hold each word to its correct meaning in the way it is used, so in use of the

linguists and its linguistic reality, and in the legislation and its legislative reality, and in the use of the traditionalists on its traditional reality.

2 - The Metaphor is a word used for other than the purpose it was intended, for example: A lion for a brave man. So what is excluded from our statement: 'used' are unused words, which is neither a reality nor a metaphor. And what is not included by the words 'for other than the purpose it was intended' is reality.

It is not permissible to load a word intending its metaphoric meaning except with a correct proof that prevents the realistic meaning being intended, and it is known in the field of eloquence as a 'qarīnah'.

The condition of using a word for its metaphorical meaning is the presence of a link between the realistic meaning and the metaphorical meaning, so the expression is correct and this is known in the knowledge of Bayān (eloquence) as a link, and it is either through similarity or otherwise. So if it is a similarity then it is called 'at-tajawwaz isti'arah' (borrowing), as is the case with the word lion for a brave man.

And if it is not similar then it is called 'at-tajawwaz majaz mursal' (Metonym) if the 'tajawwaz' is in the words, and (psychological metaphor) if it is in attribution.

An example of a metonym: is to say 'we took care of the rain' meaning the pasture. So this is an example of 'at-tajawwaz' in the word.

An instance of a psychological metaphor is to say: '*the rain has given growth to the pastures.*' So the meaning of the words in real terms is what is meant, but to attribute the growth to the rain is metaphorical in use, because the one who really causes growth is Allah, so it is tajawwaz in attribution.

Also from the use of metonyms is addition and omission. An example of which is the statement of Allah the most High:

﴿ لَيْسَ كَمِثْلِهِۦ شَىْءٌ ﴾

'There is none the like of Him.' (42:11)

It is said that the letter 'kaf' is extra for the purpose of highlighting the negation of anything like unto Allah the Most High.

An example of metaphor by omission is the verse:

﴿ وَسْـَٔلِ ٱلْقَرْيَةَ ﴾

'Ask the village...' [12:82]

I.e. ask the people of the village, so the word 'people' is omitted for metaphoric purpose, and there are numerous types of such metaphorical instances that are listed in the sciences of Bayan (eloquence).

Here only some of the types of reality and metaphor in Usūl ul-Fiqh have been mentioned due to the fact that the meaning of words is either real or metaphorical, so the need

arose to make each one known and their ruling, and Allah knows best.

THE COMMAND (AL-AMR)



The definition of a command is: **a statement that includes the request of an action by way of a higher authority, such as: 'establish the prayer and pay zakat'.**

And what is excluded from our word 'statement' is anything which is not spoken via gestures even if what is meant by is a command.

And what is also excluded from our words 'the request of an action' is the prohibition, because that is requesting one to leave an action, and the intent of an action is to bring it about, and that includes the speech which is commanded to be said.

And what is also excluded from our words 'by way of a higher authority' is to appeal, and supplicate, and other such words that have the pattern of a command and through other factors which might be perceived to be a command.

Forms of the command

The forms of the command are four:

1 – **The imperative verb**, such as:

﴿ ٱتْلُ مَآ أُوحِىَ إِلَيْكَ مِنَ ٱلْكِتَـٰبِ ﴾

'Recite, [O Muhammad], what has been revealed to you of the Book.' (29:45)

2 – The imperative verbal noun, such as: 'Come to the prayer' (from the adhan).

3 – The verbal noun that is used in place of the imperative verb, such as:

﴿ فَإِذَا لَقِيتُمُ ٱلَّذِينَ كَفَرُواْ فَضَرْبَ ٱلرِّقَابِ ﴾

'So when you meet those who disbelieve [in battle], strike [their] necks).' (47:4)

4 - Present tense verb joined with the lām of imperative, such as:

﴿ ذَٰلِكَ لِتُؤْمِنُواْ بِٱللَّهِ وَرَسُولِهِۦ ﴾

'To believe in Allah and His Messenger.' (58:4)

Commands can also be understood using other than the normal forms (as mentioned above), such as something being described as fard, wajib, mandūb, or obedience, or praising the perpetrator, disparaging the one who leaves it, or when a reward is connected to it, or that to leave it would be punishable.

What the wording of a command necessitates

The Command, when not restricted by other factors, necessitates the obligation of what is being commanded, and immediately carrying it out.

From the evidences that it necessitates obligation is the verse:

﴿ فَلْيَحْذَرِ ٱلَّذِينَ يُخَالِفُونَ عَنْ أَمْرِهِۦٓ أَن تُصِيبَهُمْ فِتْنَةٌ أَوْ يُصِيبَهُمْ عَذَابٌ أَلِيمٌ ﴾

'So let those beware who dissent from the Prophet's order, lest fitnah strike them or a painful punishment.' (24:63)

The significance of this verse is that Allah has warned those violators of the commands of the Prophet ﷺ to beware of a fitnah befalling them, which is a deviation, or that a painful punishment strike them. Such a warning can only be for leaving something which is obligatory; all of this indicates that the general commands of the Prophet ﷺ must be acted upon[1]

From the evidence that it is to be carried out straight away is the verse:

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[1] [Publishers note] Shaykh Uthaymīn said: 'You find many commands in the Qur'an and in the Sunnah about which the scholars say: Indeed it is not compulsory (wājib). So the people ask: Did the scholars say this based upon the foundational principle being that the commands are devoid of obligation or did they have indications and evidence that excluded this specific command from being obligatory?

'So if it is the second (case) then the command/affair is clear. And people will remain at ease, being happy if they find evidence that excludes it from being obligatory. But sometimes evidence that excludes it from being obligatory is not found and the chest is not open, and we are not happy with its obligation. Neither are our souls at ease due to the obligation. And it is feared that this will require of them or the servants of Allah that which Allah does not require. So then destruction and the prohibited occurs.

'However, the safe path to traverse is that we say: We adhere to this foundational principle, and that is that the foundation of the (command) is its being obligatory. Then if a command occurs that we doubt whether it is for an obligation. Then this is an indication that this is not an obligation and that if people were to abandon it they would not be sinful. This is because the soul of the believer is an indicator as He (The Messenger of Allah) said: **"And sin is that which wavers in the soul."** (Sahih Muslim No. 2553) So at that time we look to see if for these specific issues there is an evidence that exclude them from being obligatory.' (Sharh Usūl Min Ilm Al Usūl, pg 162)

﴿ فَٱسْتَبِقُوا۟ ٱلْخَيْرَٰتِ ﴾

'So race forward in doing good deeds' [2: 148, 5: 48]

And the things that are enjoined by the Shariah are good, and the order to race towards good is a proof of the obligation to rush to do good deeds.

And the Prophet ﷺ disliked the fact that the people delayed the sacrifice and shaving of their heads on the Day of Hudaybiyah, until he met Umm Salamah ﵂ and told her what had happened with the people.[1]

Also, rushing to do the (good) action is from being more cautious and righteous, and delaying would result in problems, leading to the accumulation of duties which the person is then in turn unable to carry out.

It may be that an obligatory act may not require to be carried out immediately due to an evidence which requires it; in such cases it is removed from being an obligation to meaning something else, such as:

1. Recommended – for example:

﴿ وَأَشْهِدُوٓا۟ إِذَا تَبَايَعْتُمْ ﴾

'When you buy and sell have it witnessed.' [2:282]

The command to have the buying and selling witnessed is for preference according to the evidence that the

[1] Bukhari (2731, 2732) Book of conditions, 15 – Chapter: Conditions of Jihad and reconciliation with the people of war and the writing of conditions, and Ahmad (4/326/19117).

Prophet ﷺ bought a horse from a Bedouin and did not have it witnessed.[1]

2. Al-Ibāhah (permissible) – often occurring after a warning or in reply to what may be perceived as prohibited. An example of this occurring after a prohibition is the verse:

﴿ وَإِذَا حَلَلْتُمْ فَٱصْطَادُوا۟ ﴾

'But when you come out of Ihrām, then [you may] hunt.' [5:2]

The command to go hunting is one of permissibility because it is mentioned after the warning as is deduced from the verse:

﴿ غَيْرَ مُحِلِّى ٱلصَّيْدِ وَأَنتُمْ حُرُمٌ ﴾

'Hunting not being permitted while you are in the state of Ihrām' (5:1)

And an example of when it is reply to what is perceived to be prohibited is the statement of the Prophet ﷺ: 'Do it and there is nothing wrong'[2], in reply to the one who

[1] Reported by Abu Dawood (3607), Book of judgments, If the judge knows the truthfulness of one witness then it is permissible to give a ruling base on that; and An-Nasā'i in Al-Kubra (6243) Book of sales, 82 - The ease of leaving the witnessing of selling.

[2] Bukhari (83) The Book of Knowledge, 23 – Chapter: Giving rulings while on a riding beast and other than that. Muslim (1306) Book of Hajj, 57 - The chapter: Whoever shaves his head before sacrifice, and whoever sacrifices before the throwing.

asked during the final Hajj about doing the actions of the day of Eid in a different order.

3. **As a threat,** as in the statement of the Most High:

﴿ ٱعْمَلُوا۟ مَا شِئْتُمْ ۖ إِنَّهُۥ بِمَا تَعْمَلُونَ بَصِيرٌ ﴾

'Do what you like indeed He is ever-watchful over what you do.' (41:40)

﴿ فَمَن شَآءَ فَلْيُؤْمِن وَمَن شَآءَ فَلْيَكْفُرْ ۚ إِنَّآ أَعْتَدْنَا لِلظَّٰلِمِينَ نَارًا ﴾

'So whoever wishes then let him believe and whoever wishes, let him disbelieve. Verily We have prepared for the unjust a Fire.' (18:29)

So the warning is mentioned after the command is laid down proving that it is a threat.

4. **The command is removed from an immediate nature to one which can be implemented over time** – and an example of that is making up the missed days of Ramadan because even though it is ordered to be made, the evidence indicates that it can be done over a period of time, as narrated by Ā'ishah ﵂: 'When I had to make up for the fasting of Ramadan, I would make up for it what I could except in Sha'ban and that due to the Messenger of Allah's ﷺ station.'[1]

[1] Refer to Bukhari (1950), Book of fasting, 40 – When to make up the missed days of Ramadhan; and Muslim (1146) Book of Fasting, 26 - Chapter: making up the missed days of Ramadan in Sha'bān.

If the delay was forbidden, then Aisha ﷺ would not have confirmed it.

5. When what has been commanded cannot be completed except with it – so if an action that has been commanded is stopped because of something then that thing itself becomes commanded (in order to fulfil the command), and if it is recommended then the thing is by default recommended.

An example of an obligation is the covering of someone's 'awrah (part of the body that must be covered); if you are prevented by doing so without certain clothes, then buying those clothes becomes an obligation also.

An example of something recommended is the wearing of perfume on the day of Jum'ah, if it relies on buying perfume to carry it out, then buying that perfume is likewise recommended.

This principle is part of a more general principal and that is: the means follow the rulings of the purposes they are being used for, so the means that are undertaken to fulfil obligations are themselves obligatory, as are the those things that are prohibited, the means are also rendered unlawful.

The Prohibition (An-Nahī)



The definition of prohibition is: **A statement which includes a request to avoid doing something that is from a higher authority with a specific format: that of the present tense coupled with the lam of prohibition**, such as the statement of the Most High:

﴿ وَلَا تَتَّبِعْ أَهْوَآءَ ٱلَّذِينَ كَذَّبُوا۟ بِـَٔايَـٰتِنَا وَٱلَّذِينَ لَا يُؤْمِنُونَ بِٱلْـَٔاخِرَةِ ﴾

'Do not follow those who deny Our revelations and who do not believe in the Hereafter' (6:150)

What is excluded from our definition is the word 'gestures' as it is not known as a prohibition even if it give its meaning.

And what is also excluded from our words 'a request to avoid something' is the command because it is a request to do something.

And what is also excluded from our words 'from a higher authority' is an appeal, a supplication or other than that from which a prohibition can be deduced.

And what is also excluded from our words 'a specific format of the present tense, etc.' is what indicates a request to abstain from something with the format of al-amr (command) like: 'da'' (leave alone), 'utruk' (leave, abandon) 'kaff' (leave off) and the like; even though this includes a request to stop, but the form is for a command and not a

prohibition. Furthermore, the prohibition can be understood in ways other than the normal forms of prohibition (as mentioned above) such as when the act is described as: haram, severely warned against, distasteful, the perpetrator is disparaged or that a punishment is ascribed to it and so on.

What the wording of prohibition necessitates

When left unrestricted it necessitates complete prohibition of that which is being forbidden and its invalidity.

From the evidences that demonstrate this is the statement of the Most High:

﴿ وَمَآ ءَاتَىٰكُمُ ٱلرَّسُولُ فَخُذُوهُ وَمَا نَهَىٰكُمْ عَنْهُ فَٱنتَهُوا۟ ﴾

'And whatsoever the Messenger gives you then take it, and whatever he forbids you from then abstain from it.' (59:7)

So the command is to stop at what he forbade us from, which requires that we must abstain from it, so then it in turn becomes a prohibited act.

From the evidences that show the invalidity (of certain actions) is the saying (of the Prophet ﷺ): 'Whoever does and action that is not in accordance with our affair then it is *radd*,'[1] i.e. rejected and whatever he forbade us from, so if

[1] Narrated by Muslim (1718, [18]) Book of Judgements, 8 -Chapter: Invalidating false rulings and refuting newly invented matters.

the order of the Prophet ﷺ was not followed, then it will be rejected.

The principal according to the school of thought (Hanbali) concerning those things that have been forbidden whether they are correct or not are as follows:

1. The prohibition returns back to the very thing itself being prohibited or its condition, thus making it incorrect.
2. The prohibition returns back to something other than itself or its conditions therefore not being incorrect.

An example of the first principle in worship is the prohibition on fasting on the two days of Eid.

An example of the first princinple in dealing with other people is the prohibition of selling after the second call to the Friday prayer for whoever the day of Friday is obligatory.

An example of the second principle in worship is the prohibition of a man wearing silk, so he covers his 'awrah (fulfilling one of the) conditions of prayer, but if he covers his 'awrah with a forbidden cloth his prayer is invalid because the prohibition returns to the condition (of the prayer being valid).

An example of the second principle when dealing with other people is the prohibition on the sale of a foetus (load), because knowledge of what you are buying is a condition for the validity of the transaction, if a foetus is sold the

transaction is not valid due to the condition of the prohibition.

An example a prohibition returning to an external issue with regards to worship is the wearing of a silk turban by a man, so if he prays whilst wearing a silk turban, it does not invalidate his prayer because the prohibition does not fall back on the prayer or its condition (to be accepted).

An example of a prohibition returning to an external issue with regards to transactions is the prohibition of fraud, if something is sold fraudulently, that does not invalidate the sale.

(The format of) Prohibition sometimes can be used for other than that which has been forbidden when evidence shows otherwise as in the following cases:

1. **Dislike** – the example that is given is of the saying of the Prophet ﷺ: 'Do not let any of you touch his private part with his right hand when he urinates.'[1]

The majority say that the prohibition here is for it being disliked, because his private part is part of the body, and the wisdom of forbidding it is to keep the right hand pure.

2. **Guidance** – such as the saying of the Prophet ﷺ to Muadh (bin Jabal): 'Never leave off saying after every

[1] Bukhari (153) Book of ablution, 18 – Chapter: prohibition of using the right hand to clean the private parts after relieving yourself; and Muslim, (267) 18 - Chapter: prohibition of using the right hand to clean the private parts after relieving yourself and the wording is his.

prayer: O Allah, help me to remember You, give thanks to You and worship You well.'[1]

3. Who is being addressed (by the legislation to implement) the commands and prohibitions – the one who is being addressed for the commands and prohibitions (is): the Mukallaf (the one who has been charged to carry out all those obligations that are applicable to him), an adult (passed puberty) and of sane mind.

What is excluded from our word 'adult' is a child, who isn't charged with the commands and prohibitions in the same way an adult is, but is ordered to do acts of worship in order to help him get used to showing obedience (to Allah), and likewise he should be prevented from sins so as to accustomise him with withholding from them.

And what is excluded from our word 'sane' is a insane person, as he is not charged with commands and prohibitions, but is prevented from such actions that maybe a transgression against others or a perversion, and even if he does an action from the things that have been commanded it would not be deemed correct simply because he did not intend by it to comply with the command in the first place.

[1] Reported by Ahmad (5/244/22172) and (247/22179) and Abu Dawood (1522) book of Witr, The chapter of forgiveness; and an-Nisā'i in Mujtaba (1302) Book of forgetfulness, Chapter: another kind of Supplication. Authenticated by Nawawi, and Hāfiz (Ibn Hajar) in Al- Fath Al-Bari (11/133).

This does not however refer to the obligation of zakat and the financial rights of the child or insane person, because the obligation is tied to certain reasons, so whenever they are found then the ruling applies because it relies on the reason and not the (state of the) one doing it.

And the burden of obeying the commands and abstaining from the prohibitions is levelled at all Muslims and non-Muslims alike, only the non-Muslims will have their deeds accepted while they are in a state of disbelief, due to the statement of the Most High:

﴿ وَمَا مَنَعَهُمْ أَن تُقْبَلَ مِنْهُمْ نَفَقَـٰتُهُمْ إِلَّآ أَنَّهُمْ كَفَرُوا۟ بِٱللَّهِ وَبِرَسُولِهِۦ وَلَا يَأْتُونَ ٱلصَّلَوٰةَ إِلَّا وَهُمْ كُسَالَىٰ وَلَا يُنفِقُونَ إِلَّا وَهُمْ كَـٰرِهُونَ ﴾

'And what prevents their expenditures from being accepted from them but that they have disbelieved in Allah and in His Messenger.' (9:54).

They are not ordered to make up for it if they accept Islam as the statement of the Most High says:

﴿ قُل لِّلَّذِينَ كَفَرُوٓا۟ إِن يَنتَهُوا۟ يُغْفَرْ لَهُم مَّا قَدْ سَلَفَ وَإِن يَعُودُوا۟ فَقَدْ مَضَتْ سُنَّتُ ٱلْأَوَّلِينَ ﴾

'Say to those who have disbelieved [that] if they cease, what has previously occurred will be forgiven for them.' (8:38)

And the Prophet ﷺ said to Amr Ibn al-Ās: 'Do you not know O 'Amr that Islam cancels what came before it?'[1], rather he is only punished if he dies on disbelief. This is indicated in the statement of the Most High concerning the reply of the criminals when they are asked:

﴿ مَا سَلَكَكُمْ فِي سَقَرَ ○ قَالُوا لَمْ نَكُ مِنَ ٱلْمُصَلِّينَ ○ وَلَمْ نَكُ نُطْعِمُ ٱلْمِسْكِينَ ○ وَكُنَّا نَخُوضُ مَعَ ٱلْخَآئِضِينَ ○ وَكُنَّا نُكَذِّبُ بِيَوْمِ ٱلدِّينِ ○ حَتَّىٰٓ أَتَىٰنَا ٱلْيَقِينُ ﴾

'"What put you into Saqar?" They will say, "We were not of those who prayed, nor did we used to feed the poor. And we used to enter into vain discourse with those who engaged [in it], and we used to deny the Day of Recompense until there came to us the certainty."' (74:42-47)

Things that prevent someone from having to carry the ordainments laid down by the Shariah, such as:

- Ignorance, forgetfulness and coercion due to what the Prophet ﷺ said: 'Allah has forgiven my ummah for its mistakes; what they forget and what they are forced to do.'[2] Narrated by Ibn Mājah and al-Bayhaqī; there are

[1] Narrated by Muslim (121) Book of Faith, 54 - The chapter: Islam wipes out what came before it, as well as hijrah and Hajj.

[2] Narrated by Ibn Mājah (2043.2045) Book of divorce, 16 - Chapter: divorce of coercion and forgetfulness; and Bayhaqi (6/84) Book of testimony, the chapter: The one whose testimony is not permissible. Al-Ajlouni said in *Kashf ul-Khafā'*

also corroborating evidences which from the Quran and Sunnah which prove its authenticity.

- Lack of knowledge, so whenever a mukallaf violates a prohibition unaware of it being so, then there is nothing upon him (sin), like someone speaking in the prayer while being ignorant of the prohibition of speech in the prayer; and whenever he leaves an obligation not aware of it being obligatory he is not to be ordered to make up for it as long as the time for it has passed, using as evidence the Prophet ﷺ, when he did not order the person who prayed badly in his prayers – in which he was not tranquil - to make up all the missed prayers, but ordered him to pray the current prayer according to the correct way.

- Forgetfulness: absence of mind for something known, so if someone falls into doing a prohibited act out of forgetfulness then there is no sin upon him, such as the one who eats while fasting due to forgetfulness. When someone forgets to fulfil a duty then there is nothing upon him while he is in that state of forgetfulness, however he must do so when he remembers due to saying of the Prophet ﷺ: 'Whoever forgets the prayer then let him pray when he remembers to do so.'[1]

(1/523/1393): Nawawi classed it as hasan in *ar-Rawdah* and *al-Arba'īn*. Ibn Kathīr approved it in *at-Tuhfat ut-Talib*.

[1] Bukhari (597) Book times of the Prayer, 37 - The chapter: The one who forgets the prayer let him pray it when he remembers it and not repeat any except that; and Muslim (684) Book of Masjids, 55 – Chapter: missed prayers and the desirability to hasten in making them up.

- Coercion: forcing a person into doing what he does not want to, so whosoever is forced to do something forbidden then there is no sin upon him, such as the one who is forced into acts of disbelief (blasphemy) while his heart is at peace with faith[1] also the one who is forced to not fulfil an obligation, then there is no sin upon while he is being forced, and that he fulfil it when he is no longer being forced, and like the one who is forced to miss the prayer until after its allotted time, then he must make up for that missed prayer as soon as he is under no coercion.

And all these things are with regards to the right of Allah, which is based on forgiveness and mercy, as for the rights of the creation then these things will not prevent whatever commitments that have been made are kept to if the person who is involved does not choose to overlook it, and Allah knows best.

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[1] [Publishers note]

Shaykh Uthaymīn said: 'So if an individual was forced upon disbelief and committed disbelief but their heart was at rest with faith, then indeed there is nothing upon them, due to the text of the Qur'an: **'Whoever disbelieved in Allah after his belief, except him who is forced thereto and whose heart is at rest with Faith but such as open their breasts to disbelief, on them is wrath from Allah, and theirs will be a great torment'** (16:106). And that which is correct is that coercion is not merely the command (to do something) rather it is undoubtedly from being forced (to do something)' (Sharh Usūl Min Ilm Al Usūl pg 240)

THE GENERAL (AL-'ĀM)



The definition

'Al-'Ām' linguistically means inclusive. And technically it means: **an all-encompassing word that includes all its individual elements without restriction**, such as:

﴿ بَلِ ٱلَّذِينَ كَفَرُواْ يُكَذِّبُونَ ﴾

'The righteous are in bliss' (82:13, 84:22)

So what is excluded from our words 'includes all its individual elements' is whatever includes only a single element such as a specific noun or an indefinite article in the context of an affirmation, such as the saying of the Most High:

﴿ فَتَحْرِيرُ رَقَبَةٍ ﴾

'The freeing of a neck' [58:3]

This is because it does not address all the elements by way of inclusiveness, but deals with one which is unspecified.

And what is not included by the words 'without restriction' is whatever addresses all its elements with restriction such as the number nouns: one hundred thousand and the like.

Forms of General (Al-'Ām)

The **seven types of wording which indicate generality** are:

1. **What shows generality in itself** – such as: kullu (every), jamī' (entirely), kāfah (totality) qatibah (all without exception), and al-'Ām (general); such as the saying of the Most High:

﴿ إِنَّا كُلَّ شَيْءٍ خَلَقْنَٰهُ بِقَدَرٍ ﴾

'Indeed everything We have created with due proportion and measure' (54:49)

2. **Nouns of condition** – like the saying of the Most High:

﴿ مَنْ عَمِلَ صَٰلِحًا فَلِنَفْسِهِۦ ﴾

'Whoever does a righteous deed then it is for himself' (45:15)

﴿ فَأَيْنَمَا تُوَلُّوا۟ فَثَمَّ وَجْهُ ٱللَّهِ ﴾

'Wherever you turn there is the Face of Allah' (2:115)

3. **Interrogative nouns** – like the saying of the Most High:

﴿ قُلْ أَرَءَيْتُمْ إِنْ أَصْبَحَ مَآؤُكُمْ غَوْرًا فَمَن يَأْتِيكُم بِمَآءٍ مَّعِينٍ ﴾

'Who is it that will bring forth gushing water?' (67:30)

﴿ وَيَوْمَ يُنَادِيهِمْ فَيَقُولُ مَاذَآ أَجَبْتُمُ ٱلْمُرْسَلِينَ ﴾

'What did you answer the messengers?' (28:65)

﴿ فَأَيْنَ تَذْهَبُونَ ﴾

'Where are you going?' (81:26)

4. **Relative nouns** – like the saying of the Most High:

﴿ وَٱلَّذِى جَآءَ بِٱلصِّدْقِ وَصَدَّقَ بِهِۦٓ ۙ أُو۟لَٰٓئِكَ هُمُ ٱلْمُتَّقُونَ ﴾

'And the one who has brought the truth and [they who] believed in it - those are the righteous.' (39:33)

﴿ وَٱلَّذِينَ جَٰهَدُوا۟ فِينَا لَنَهْدِيَنَّهُمْ سُبُلَنَا ۚ وَإِنَّ ٱللَّهَ لَمَعَ ٱلْمُحْسِنِينَ ﴾

'And those who strive for Us - We will surely guide them to Our ways.' (29:69)

﴿ إِنَّ فِى ذَٰلِكَ لَعِبْرَةً لِّمَن يَخْشَىٰٓ ﴾

'Indeed in that is a warning for whoever would fear [Allah].' (79:26)

﴿ وَلِلَّهِ مَا فِى ٱلسَّمَٰوَٰتِ وَمَا فِى ٱلْأَرْضِ ۚ يَغْفِرُ لِمَن يَشَآءُ وَيُعَذِّبُ مَن يَشَآءُ ۚ وَٱللَّهُ غَفُورٌ رَّحِيمٌ ﴾

'And to Allah belongs whatever is in the heavens and whatever is on the earth.' (3:129)

5. **The indefinite noun in the context of negation, prohibition or rhetorical question** – like the saying of the Most High:

﴿ وَمَا مِنْ إِلَٰهٍ إِلَّا ٱللَّهُ ۚ ﴾

'There is no true god but Allah.' [3:62]

﴿ ۞ وَٱعْبُدُوا۟ ٱللَّهَ وَلَا تُشْرِكُوا۟ بِهِۦ شَيْـًٔا ۖ ﴾

'And worship Allah and join none with Him.' (4:36)

﴿ إِن تُبْدُوا۟ شَيْـًٔا أَوْ تُخْفُوهُ فَإِنَّ ٱللَّهَ كَانَ بِكُلِّ شَىْءٍ عَلِيمًا ﴾

'If you Reveal anything or conceal it, indeed Allah is the knower of everything.' (33:54)

﴿ قُلْ أَرَءَيْتُمْ إِن جَعَلَ ٱللَّهُ عَلَيْكُمُ ٱلَّيْلَ سَرْمَدًا إِلَىٰ يَوْمِ ٱلْقِيَـٰمَةِ مَنْ إِلَـٰهٌ غَيْرُ ٱللَّهِ يَأْتِيكُم بِضِيَآءٍ ۖ أَفَلَا تَسْمَعُونَ ﴾

'Which deity is there other than Allah that can bring light for you, do you then not hear.' (28:71)

6. The possession (noun) singular or plural, defined through Al-Idhafah (a possessive noun) – like the saying of the Most High:

'Mention the grace of Allah upon you' (3:103)

7. The defined noun, singular or plural, by way of the definite article ('al' of inclusiveness) – like the saying of the Most High:

﴿ وَخُلِقَ ٱلْإِنسَـٰنُ ضَعِيفًا ﴾

'And man was created weak.' (4:28)

﴿ وَإِذَا بَلَغَ ٱلْأَطْفَـٰلُ مِنكُمُ ٱلْحُلُمَ فَلْيَسْتَـْٔذِنُوا۟ كَمَا ٱسْتَـْٔذَنَ ٱلَّذِينَ مِن قَبْلِهِمْ ۚ كَذَٰلِكَ يُبَيِّنُ ٱللَّهُ لَكُمْ ءَايَـٰتِهِۦ ۗ وَٱللَّهُ عَلِيمٌ حَكِيمٌ ﴾

'And when the children among you come of age, let also ask permission of those before them' (24:59)

As for the defined noun by virtue of the 'al' acknowledgement, then it is according to what has been acknowledged, so if it is general then it is deemed as defined in general terms, on the other hand if it is specific then it is considered defined as specific.

An example of al-'Ām is the saying of the Most High:

﴿ إِذْ قَالَ رَبُّكَ لِلْمَلَٰٓئِكَةِ إِنِّى خَٰلِقٌۢ بَشَرًا مِّن طِينٍ ۝ فَإِذَا سَوَّيْتُهُۥ وَنَفَخْتُ فِيهِ مِن رُّوحِى فَقَعُوا۟ لَهُۥ سَٰجِدِينَ ۝ فَسَجَدَ ٱلْمَلَٰٓئِكَةُ كُلُّهُمْ أَجْمَعُونَ ﴾

'The Lord said to the angels, I create man from clay. When I have breathed into him of My spirit and fashioned him they prostrated to him. All the angels every last one of them fell down in prostration.' (38:71-73)

An example of specific is the saying of the Most High:

﴿ إِنَّآ أَرْسَلْنَآ إِلَيْكُمْ رَسُولًا شَٰهِدًا عَلَيْكُمْ كَمَآ أَرْسَلْنَآ إِلَىٰ فِرْعَوْنَ رَسُولًا ۝ فَعَصَىٰ فِرْعَوْنُ ٱلرَّسُولَ فَأَخَذْنَٰهُ أَخْذًا وَبِيلًا ﴾

'As we sent a Messenger to Pharaoh. So Pharaoh disobeyed the Messenger so We took hold of him in a severe way.' (73:15-16)

As for the 'al' that helps to define the class noun, then the singular nouns are not made general. If you were to say: (the) man is better than (the) woman, or (the) men are better than (the) women, it is not intended that each and every member of the male gender is better than each and every individual of the female gender, rather that the male gender is better than the female gender, though there may be members of the female gender that are better than some of their counterparts.

Acting on the general

It is necessary that we act on the general until it is proven that it is specific; this is because the texts of the Qur'an and Sunnah require we act on what they signify until evidence to the contrary is becomes apparent.

So when we find something general that has come about due to a special reason then we must act upon the general (text); because what counts is the generality of the wording and not the specifics of the reason (that text was revealed), except when an evidence indicates the specific nature of that text, thereby making it specific to whatever is similar to it.

An example of when no evidence makes a general text specific is the saying of the Most High regarding zihār (when a man pronounces that his wife is like the back of his mother to him –intending by it to divorce her); the reason of revelation was the companion 'Aws bin Samit (who said this to his wife) but the ruling is general for him and other than him.

And an example of when an evidence makes something specific is the saying of the Prophet ﷺ: 'It is not from righteousness to fast while travelling'[1], the reason behind that was when the Prophet ﷺ was on a journey whereupon he saw a crowd and a man being shaded by them and said:

[1] Bukhari (1946) Book of Fasting, 36 - Chapter: the words of the Prophet peace be upon him about the one who is shaded and heat becomes too intense, it is not from righteousness to fast while traveling; and Muslim (1115) book of fasting, 15 - chapter: the permissibility of fasting and not fasting in the month of Ramadan for the traveller as long as it does not involve disobedience and is in two or more phases.

'What is this?' They said: 'he is fasting.' He said: 'It is not from righteousness to fast while travelling.'[1] This generality is specific to those who resemble the condition of that man; in other words when fasting becomes strenuous for someone whilst travelling. The proof indicating it is specific is that the Prophet ﷺ himself used to fast while on a journey when it was not difficult for him, and the Prophet ﷺ did not do that which was not righteous.

[1] See: Bukhari (1945) Book of Fasting, Chapter 35; and Muslim (1122) Book of Fasting, 17 - Chapter: Choice of fasting or not during a journey.

THE SPECIFIC (AL-KHĀS)



The definition

Linguistically, [al-Khās] means: the opposite of general (Al-'Ām). And technically it means: **a word which is restricted to a person or a certain number, such as names of well-known people; demonstrative nouns and numbers.**

So what is excluded from our word 'restricted' is anything general.

The word Takhsīs (making specific/customization) linguistically means: the exact opposite of generalization. And technically it means: **singling out some elements of what is general.**

Al-Mukhasis – with an 'I' -: is the one who makes the takhsīs, which is the legislator and the evidence that takhsīs is obtained from is also called by this word (Mukhasis).

The evidences which indicate takhsīs is of two types:

1. Connected: What cannot be independent by itself.
2. Separate: What can be independent by itself.

[Connected]

Therefore, from the Mukhasis al-Mutasil (the connected specifier) is:

First: Al-Istithnah (exception) which linguistically is from 'thana', which means to bend something with another part of itself, like tying rope. And technically it means extracting some elements of the general with the word 'illa' (except) or with one of its sisters, as in the saying of the Most High:

﴿ إِنَّ ٱلْإِنسَـٰنَ لَفِى خُسْرٍ ۝ إِلَّا ٱلَّذِينَ ءَامَنُوا۟ وَعَمِلُوا۟ ٱلصَّـٰلِحَـٰتِ وَتَوَاصَوْا۟ بِٱلْحَقِّ وَتَوَاصَوْا۟ بِٱلصَّبْرِ ﴾

'Indeed man is in loss except those who believe and do good works, and exhort one another to truth and exhort one another to patience' (103:2-3)

And what is excluded from our statement: 'illa' (except) or with one of its sisters, is making something specific with a condition and other than that.

Conditions for Al-Istithnah

For the validity of Al-Istithnah, the following conditions are stipulated:

1. It is connected to the thing it is being made an exception from either actual connection or assumed:
Actual connection: When the exception is directly next to the thing it is being excluded from where there is no break in between them. While being connected in assumption is when there is a break between them by something which cannot be repelled such as coughing or sneezing.

If however the separation between the two is by something which can be repelled, or a silence then the exception is not valid such as saying: 'My slaves are free,' then a silent pause, or to speak other words, and then say: 'except Sa'īd'; then the exception is not valid and all the slaves are to be freed.

It has been said that exceptions are valid with silence, or a break in speech if the speech is one, due to the hadīth of Ibn 'Abbās that the Prophet ﷺ said on day of the Conquest of Mecca: 'This country has been made sacred by Allah on the day he created the heavens and the earth, its thorns are not to be propped up, nor its shrubs uprooted;' so Al-Abbas said: 'O messenger of Allah, except idhker?' he said: 'Except idhker.'[1] This view is the most likely due to the apparent meaning of the hadīth.

2. The exception should not be more than half of the thing it is excluded from, so if it is said: 'I owe him ten dirhams except six' then this is not a valid exception and the whole ten is payable.

It has been said that this should not be a condition and the exception stands even if the exception is more than half, that he is not obliged to pay more than 4 (dirham).

[1] Narrated by Bukhari (1349) book of Funerals, 77 - Chapter: Al-Idhkīr and hashish in the grave. Muslim (1352) Book of Hajj, 82 - Chapter: Sanctity of Mecca and hunting therein...

As for making the entire sum an exception then according to both positions it is not valid, such as him saying: 'I owe him ten except ten', then the whole ten is payable.

This stipulation is on whether the exception is to do with numbers, but if it is to do with a description then it is valid even if most or all is made as an exception. An example of that is the statement of the Most High to Iblees:

﴿ إِنَّ عِبَادِى لَيْسَ لَكَ عَلَيْهِمْ سُلْطَـٰنٌ إِلَّا مَنِ ٱتَّبَعَكَ مِنَ ٱلْغَاوِينَ ﴾

'Indeed, My servants - no authority will you have over them, except those who follow you of the deviators;' (15:42) and the followers of Satan compared to the children to Adam are more than half, and if you say: 'give to everyone in the house except the wealthy,' then it transpires that all those in the house are rich, the exception will still hold true and no-one in the house receives anything.

Second: From the Mukhasas Al-Mutasil is the 'shart' (condition) which in the [Arabic] language means a mark or sign. And what is meant here is connecting one thing to another whether it is present or not with the conditional 'An' or one of its sisters.

The condition is specific, whether it comes early in the text or late. And an example of when it comes early is the saying of Allah the Most High concerning the idolaters:

﴿ فَإِن تَابُواْ وَأَقَامُواْ ٱلصَّلَوٰةَ وَءَاتَوُاْ ٱلزَّكَوٰةَ فَخَلُّواْ سَبِيلَهُمْۚ إِنَّ ٱللَّهَ غَفُورٌ رَّحِيمٌ ﴾

'But if they should repent, establish prayer, and give zakah, let them [go] on their way. Indeed, Allah is Forgiving and Merciful.' (9:5)

And an Example of when it is delayed in a text is the saying of the Most High:

﴿ وَٱلَّذِينَ يَبۡتَغُونَ ٱلۡكِتَٰبَ مِمَّا مَلَكَتۡ أَيۡمَٰنُكُمۡ فَكَاتِبُوهُمۡ إِنۡ عَلِمۡتُمۡ فِيهِمۡ خَيۡرًاۖ ﴾

'And those who seek a contract [for eventual emancipation] from among whom your right hands possess - then make a contract with them if you know there is within them goodness.' (24:33)

Third: a description, such as specifying some individuals from a general group, by way of adjective, substitute (badl) or state (hāl).

An example of the adjective is the saying of the Most High:

﴿ فَمِن مَّا مَلَكَتۡ أَيۡمَٰنُكُم مِّن فَتَيَٰتِكُمُ ٱلۡمُؤۡمِنَٰتِۚ ﴾

'From those whom your right hands possess of believing slave girls' (4:25).

The example of substitute is the saying of the Most High:

﴿ وَلِلَّهِ عَلَى ٱلنَّاسِ حِجُّ ٱلۡبَيۡتِ مَنِ ٱسۡتَطَاعَ إِلَيۡهِ سَبِيلٗاۚ ﴾

'And [due] to Allah from the people is a pilgrimage to the House - for whoever is able to find thereto a way.' (3:97)

An example of hāl is the saying of the Most High:

﴿ وَمَن يَقْتُلْ مُؤْمِنًا مُّتَعَمِّدًا فَجَزَآؤُهُۥ جَهَنَّمُ خَٰلِدًا فِيهَا وَغَضِبَ ٱللَّهُ عَلَيْهِ وَلَعَنَهُۥ وَأَعَدَّ لَهُۥ عَذَابًا عَظِيمًا ﴾

'But whoever kills a believer intentionally - his recompense is Hell, wherein he will abide eternally, and Allah has become angry with him and has cursed him and has prepared for him a great punishment' (4:93)

[Custom]

The separate mukhasis is that which is independent and it comprises of three things: sense, reason and the legislation.

An example of takhsīs by the senses is the saying of the Most High regarding the wind of 'Ād:

﴿ تُدَمِّرُ كُلَّ شَيْءٍ بِأَمْرِ رَبِّهَا ﴾

'Destroying everything by command of its Lord' (46:25)

The sense indicates that it did not destroy the heaven and the earth.

An example of takhsīs through reason is the saying of the Most High:

﴿ ٱللَّهُ خَٰلِقُ كُلِّ شَيْءٍ ﴾

'Allah is the Creator of all things;' (39:62)

The mind indicates that Allah is not created. Some of the scholars hold the view that what is made specific by the

senses and intellect is not from the general that is made specific, rather it is from the general which is intended for being specific, so the intent of the speaker or the addresser is not the specific in the first place, and this a general reality which a specific one (as in the saying of the Most High) is intended by.

As for the takhsīs of legislation, then the Book and the Sunnah is made specific by each other as well as by Ijmā' and analogy.

As an example of the Quran making specific other parts of the Quran, note the saying of the Most High:

﴿ وَٱلْمُطَلَّقَٰتُ يَتَرَبَّصْنَ بِأَنفُسِهِنَّ ثَلَٰثَةَ قُرُوٓءٍ ﴾

'Divorced women remain in waiting for three periods.'
(2:228)

This is made specific by the saying of the Most High:

﴿ يَٰٓأَيُّهَا ٱلَّذِينَ ءَامَنُوٓاْ إِذَا نَكَحْتُمُ ٱلْمُؤْمِنَٰتِ ثُمَّ طَلَّقْتُمُوهُنَّ مِن قَبْلِ أَن تَمَسُّوهُنَّ فَمَا لَكُمْ عَلَيْهِنَّ مِنْ عِدَّةٍ تَعْتَدُّونَهَا ۖ فَمَتِّعُوهُنَّ وَسَرِّحُوهُنَّ سَرَاحًا جَمِيلًا ﴾

'O You who have believed, when you marry believing women and then divorce them before you have touched them, then there is not for you any waiting period to count concerning them.' (33:49)

For examples of how the Quran is made specific by the Sunnah, take the verses of inheritance, as the saying of the Most High:

﴿ يُوصِيكُمُ ٱللَّهُ فِىٓ أَوۡلَٰدِكُمۡۖ لِلذَّكَرِ مِثۡلُ حَظِّ ٱلۡأُنثَيَيۡنِۚ ﴾

'Allah instructs you concerning your children: for the male, what is equal to the share of two females' (4:11)

And the like are made specific by the saying of the Prophet ﷺ: 'The Muslim must not inherit from the infidel and the infidel must not inherit from the Muslim.'[1]

For an example of the Qur'an being made specific by consensus, the saying of the Most High:

﴿ وَٱلَّذِينَ يَرۡمُونَ ٱلۡمُحۡصَنَٰتِ ثُمَّ لَمۡ يَأۡتُواْ بِأَرۡبَعَةِ شُهَدَآءَ فَٱجۡلِدُوهُمۡ ثَمَٰنِينَ جَلۡدَةً وَلَا تَقۡبَلُواْ لَهُمۡ شَهَٰدَةً أَبَدًاۚ وَأُوْلَٰٓئِكَ هُمُ ٱلۡفَٰسِقُونَ ﴾

'And those who accuse chaste women and then do not produce four witnesses - lash them with eighty lashes' (24:4)

...is made specific by consensus that the slanderous slave is to be flogged forty times instead, and like this many of the people of Usūl give examples, although there is some proven disagreement in this, I have not been able to find a sound example which is free from disagreement.

An example of the Qur'an being made specific through analogy is the saying of the Most High:

﴿ ٱلزَّانِيَةُ وَٱلزَّانِى فَٱجۡلِدُواْ كُلَّ وَٰحِدٖ مِّنۡهُمَا مِاْئَةَ جَلۡدَةٖۖ وَلَا تَأۡخُذۡكُم بِهِمَا رَأۡفَةٞ فِى دِينِ ٱللَّهِ إِن كُنتُمۡ تُؤۡمِنُونَ بِٱللَّهِ وَٱلۡيَوۡمِ ٱلۡأٓخِرِۖ وَلۡيَشۡهَدۡ عَذَابَهُمَا طَآئِفَةٞ مِّنَ ٱلۡمُؤۡمِنِينَ ﴾

[1] Narrated by Bukhari (4283) the book of Mughari, 48 - Chapter: where the Prophet, peace be upon him, focused the banner on the day of the conquest of Makkah; and Muslim (1614) Book of inheritance.

'The [unmarried] woman or [unmarried] man found guilty of sexual intercourse - lash each one of them with a hundred lashes.' (24:2)

This has been made specific by analogy to fifty lashes for the slave adulterer with the slave girl and this opinion is the most well-known.

An example of the Sunnah being made specific by the Qur'an is the statement of the Prophet ﷺ: 'I have been commanded to fight the people until they testify that there is no true God but Allah and that Muhammad is the Messenger of Allah ..."[1], this has been made specific by the saying of the Most High:

﴿ قَٰتِلُواْ ٱلَّذِينَ لَا يُؤْمِنُونَ بِٱللَّهِ وَلَا بِٱلْيَوْمِ ٱلْءَاخِرِ وَلَا يُحَرِّمُونَ مَا حَرَّمَ ٱللَّهُ وَرَسُولُهُۥ وَلَا يَدِينُونَ دِينَ ٱلْحَقِّ مِنَ ٱلَّذِينَ أُوتُواْ ٱلْكِتَٰبَ حَتَّىٰ يُعْطُواْ ٱلْجِزْيَةَ عَن يَدٍ وَهُمْ صَٰغِرُونَ ﴾

'Fight those who do not believe in Allah or in the Last Day and who do not consider unlawful what Allah and His Messenger have made unlawful and who do not adopt the religion of truth from those who were given the Scripture - [fight] until they give the jizyah willingly while they are humbled' (9:29)

[1] Bukhari (1399) book of Zakat, 1 - Chapter: Obligation of Zakat. Muslim (20) Book of Faith, 8 - Chapter: Command to fight the people until they say: There is no true god but Allah and Muhammad is the Messenger of Allah and they establish the prayer.

An example of the Sunnah making specific something else from the Sunnah is the saying of the Prophet ﷺ: 'On a land irrigated by rain water or by natural water channels or if the land is wet due to a nearby water channel Ushr (i.e. one-tenth) is compulsory (as Zakat)[1] and on the land irrigated by the well, half of an Ushr (i.e. one-twentieth) is compulsory (as Zakat on the yield of the land.)'[2]

I have not been able to find an example for the Sunnah being made specific by consensus.

(Lastly) an example of the Sunnah being made specific by analogy is the saying of the Prophet ﷺ: 'The virgin with the virgin is one hundred lashes and banishment for one year"[3], this has been made specific by analogy for the slave man and woman it is limited to fifty lashes, this is what is well-known.

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[1] Narrated Bukhari (1483) Book of Zakat, 55 – A tenth of what has been irrigated by the sky and by running water.

[2] Bukhari (1484) Book of Zakat, 56 - The chapter: Whatever is not five awsaq is not charity. Muslim (979) Book of Zakat without a chapter.

[3] Narrated by Muslim (1690) Book of punishments, 3 - Chapter: Punishment for adultery. Ahmad (5/313/22718) and the wording is of Taghreeb with Ibn Mājah (2550) Book of punishments, 7 - Chapter: Punishment for adultery.

The Absolute and the Restricted[1]



The Definition of Absolute (Al-Mutlaq)

Al-Mutlaq linguistically means the opposite of unrestricted. And technically it means: **whatever indicates a reality without a restriction** as in the saying of the Most High:

﴿ فَتَحۡرِيرُ رَقَبَةٖ مِّن قَبۡلِ أَن يَتَمَآسَّاۚ ﴾

'The freeing of a slave before they touch one another.' (58:3)

What is excluded from our words: 'whatever indicates a reality' is the general (al-'Ām) because it indicates the

[1] [Publishers note] Shaykh Uthaymīn said: 'The author brought them both after (mentioning) the general (Al 'Ām) and the specific (Al Khās) due to the resemblance between the general (Al 'Ām) and the absolute (Al Mutlaq) and between the specific (Al Khās) and the restricted (Al Muqayyid).

'And due to this it is difficult to make a distinction between them, however the distinction comes about by the definiton, that is, with a definition of them both.

'It has preceded that the general (Al 'Ām) is: an all-encompassing word that includes all its individual elements without restriction. As for the unrestricted (Al Mutlaq), then indeed, it does not generalise all of its individual elements and it is only connected to an individual element from it alone, however it is not stipulated/designated'.....upto his words: If I was to say to you 'Be generous to the student' then 'the student' is general ('ām) and gathers together the group of students. Meaning, 'be generous to every student'. So 'the' here is due to generality, so if there was 10 students it would necessitate being generous to all of them.

'As for if I was to say to you, 'be generous to a student' this is unrestricted (mutlaq) because if there were 10 students with us, it would be required to treat one of the 10 generously.' (Abbreviated from Sharh Usūl Min Ilm Al Usūl, pg 325-326)

generality of something whereas the Absolute indicates the absolute nature of a particular reality.

And what is also excluded from our word 'restricted' is unrestricted.

The Definition of Restricted (Al-Muqayyid)

Restricted linguistically means whatever is used to restrain a camel and the like. And technically it means: **Whatever shows a reality of something but with a restriction** such as in the saying of the Most High:

﴿ فَتَحْرِيرُ رَقَبَةٍ مُّؤْمِنَةٍ ﴾

'Freeing a believing slave' (4:92)

I.e. any believing slave. What is excluded from our word 'restraint' is Absolute.

Acting on Absolute (Al-Mutlaq)

Al-Mutlaq (texts) must be acted upon in according to its apparent meaning (of absoluteness) until an evidence restricts it[1] this is for the reason that acting on the Qur'an and the Sunnah is an obligation and must abide by what is apparent unless other evidence shows us otherwise.

[1] [Publishers note] Shaykh Uthaymīn said: 'We mentioned concerning al 'ām that it is compulsory to act according to its generality until we find evidence of At Takhsees. And it is also compulsory to act according to Al Mutlaq until we find evidence of At Taqyid. And these principles will be of benefit to you in every chapter of fiqh.' (Sharh Usūl Min Ilm Al Usūl pg 329)

When we get Absolute text and another which is Restricted concerning the same issue, then we apply the restriction to the absolute text; if they are concerning different issues then we must act on both of them, with the restriction of one and the absoluteness of the other.

An example of when the issue of both texts is one, is the saying of the Most High in expiation of zihār (pronouncing one's wife as the back of his mother intending by it divorce):

﴿ فَتَحْرِيرُ رَقَبَةٍ مِّن قَبْلِ أَن يَتَمَآسَّا ﴾

'The freeing of a slave before they touch one another.' (58:3)

And His saying about the expiation for murder:

﴿ فَتَحْرِيرُ رَقَبَةٍ مُّؤْمِنَةٍ ﴾

'Freeing a believing slave.' (4:92)

So the ruling is the same - the freeing of a neck (slave), so we must restrict the absolute nature of the first verse in expiation of zihār and restrict it to also freeing a believing slave which is the same as the restricted verse pertaining to the expiation for murder, so in both cases the slave being freed should be a believer[1]

[1] [Publishers note]

The Shaykh also said: So if I said: Free the neck of the believer, this is takhsees because when al qaid occurs upon al-'ām it is called takhsees, and if it occurs upon al mutlaq it is called taqyid.

'So if I said to you: Free a neck of a believer, then this is qaid. And if I said to you: Do not free the neck of a disbelieving woman, then this is takhsees, because the indefinite article after a forbiddance signifies Al 'Umūm. So upon this when it occurs upon 'Ām it is called takhsīs. If I was to say to you, be generous to hardworking

And an example of when the ruling is for different issues is the saying of the Most High:

﴿ وَٱلسَّارِقُ وَٱلسَّارِقَةُ فَٱقْطَعُوٓاْ أَيْدِيَهُمَا ﴾

'[As for] the thief, the male and the female, amputate their hands.' (5:38)

And His saying in the verse regarding ablution:

﴿ فَٱغْسِلُواْ وُجُوهَكُمْ وَأَيْدِيَكُمْ إِلَى ٱلْمَرَافِقِ ﴾

'Wash your faces and your forearms to the elbows.' (5:6)

Here the ruling is different [although appearing similar], in the first it mentions cutting and in the second to wash; so we do not restrict the first text by the second text, but the first verse remains absolute and that the cutting should be from the wrist and that the second likewise remains restricted and the washing being done up to, and including the elbows.

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students, then the word: students is mutlaq. So as 'hardworking' occurs upon mutlaq then it becomes qaid. Then if there were 10 hardworking students and 3 of them were treated generously then there has been complaince (with what was ordered). But if it was in a 'ām sense it would be required to be generous to all 10 (of the students)
And the saying of the most High: And Hajj (pilgrimage to Makkah) to the House (Ka'bah) is a duty that mankind owes to Allah, for those who can afford the expenses' (3:97) is takhsīs because it occurs upom 'ā, and it is: 'the people'. (Sharh Usūl Min Ilm Al Usūl, Pg 328)

THE OBSCURE AND THE CLARIFYING



The Definition of Obscure (Al-Mujmal)

Obscure linguistically means obscure or accumulated. And technically it means: **what does not allow understanding of what is meant except by something else specifying it, clarifying its description or its amount.**

An example of what needs something to specify it is the saying of the Most High:

﴿ وَٱلْمُطَلَّقَٰتُ يَتَرَبَّصْنَ بِأَنفُسِهِنَّ ثَلَٰثَةَ قُرُوٓءٍ ﴾

'Divorced women remain in waiting for three periods.' (2:228)

The term 'al-Qar' is a word which shares meanings between menstruation and purity, so it requires an evidence to show which one of the meanings is intended.

An example of what needs something else explaining its description is the saying of the Most High:

﴿ وَأَقِيمُوا۟ ٱلصَّلَوٰةَ ﴾

'And establish the prayer.' (2:43)

Indeed establishing the prayer is unknown and needs to be explained.

An example of what needs something else explaining its amount is the saying of the Most High:

﴿ وَءَاتُوا۟ ٱلزَّكَوٰةَ ﴾

'And pay the Zakat.' (2:43)

Likewise the amount of Zakat that is obligatory to pay is unknown [from this verse] and needs clarifying.

The definition of the Clarifying (Al-Mubayyin)

Al-Mubayyin linguistically refers to a clarifier, explainer. And technically it means: **when the meaning is understood by it, either the word itself in its original form or after an explanation.**

An example of what is understood to be from the word itself in its original form is the word sky, land, mountain, justice, injustice, sincerity; these words and the like are understood, and do not need something else to explain them.

An example of what is understood after clarification is the saying of the Most High:

﴿ وَأَقِيمُوا۟ ٱلصَّلَوٰةَ وَءَاتُوا۟ ٱلزَّكَوٰةَ ﴾

'And establish the prayer and pay the Zakat' (2:43)

The establishing and giving are both unclear, but the legislation has explained them, so both words have become clear after they have been explained.

Acting on Mujmal (texts)

The Mukallaf person must act upon the mujmal when the explanation is made clear to him. The Prophet ﷺ explained to his nation of followers all the legislation, its principals and subsidiary matters, so much so that he left the nation on a clear and pure white path, its night like that of its day, and he did not leave explaining something at the time of need at all.

And the Prophet's ﷺ explanation was either delivered orally, or in deed, or by word and deed both.

An example of his oral explanation is his informing us of amounts and set limits of Zakat; such as his saying ﷺ: 'A tenth of whatever is watered by the sky'; which explains the generality of the saying of the Most High:

﴿ وَءَاتُوا۟ ٱلزَّكَوٰةَ ﴾

'And pay the Zakat.' (2:43)

An example of him explaining through action is establishing the rituals of Hajj in front of all his followers making clear the generality of the saying of the Most High:

﴿ وَلِلَّهِ عَلَى ٱلنَّاسِ حِجُّ ٱلْبَيْتِ مَنِ ٱسْتَطَاعَ إِلَيْهِ سَبِيلًا ۚ ﴾

'And [due] to Allah from the people is a pilgrimage to the House - for whoever is able to find thereto a way.' (3:97)

As well as his praying the eclipse prayer according to its description, which in reality is a practical explanation of the

obscurity of his own saying: "If you see any of it (the eclipse) then pray."[1]

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[1] Narrated by Bukhari (5785) Book of dress, 2 - Chapter: Whoever drags his garment not out of pride; and Muslim (911) Book of Eclipse, 5 - Chapter: Mentioning the call for the eclipse prayer: prayer in congregation.

[Publishers note]

A Point of benefit

With regards to the one who lets his garment hang below his ankle with no intention of being conceited and showing off, the scholars differed in this case and there are three points of view: that it is harām, that it is makrūh and that it is permissible and not makrūh.

The majority of scholars from the four madhhabs are of the view that it is not harām. There follow some of the comments of the scholars from different madhhabs concerning that:

Ibn Muflih said in al-Adāb al-Shar'iyyah (3/521): Abu Hanīfah ﷺ wore an expansive rida' and let it drag on the ground. It was said to him: Are we not forbidden to do this? He said: That is for those who show off and we are not among them. End quote. See: al-Fatāwā al-Hindiyyah (5/333).

With regard to the Mālikis, some of them were of the view that it is harām, such as Ibn al-'Arabi and al-Qurāfi. Ibn al-'Arabi said in 'Āridat al-Ahwadhi (7/238): It is not permissible for a man to let his garment go beyond his ankle and say that he is not being arrogant by doing so, because the text mentions the prohibition and refers to the reason, and it is not permissible for anyone to say I am not one of those referred to in the text, because the reason does not apply to me, because that attitude goes against Shariah and is an unacceptable claim. It is a kind of arrogance to make one's garment and izār longer, so he is definitely lying. End quote.

Other Mālikis are of the view that it is makrūh and not harām. Al-Hāfiz Ibn 'Abd al-Barr said in *al-Tamhīd* (3/244): This hadīth indicates that the one who lets his garment drag for a reason other than pride and arrogance is not subject to the warning mentioned, but letting the izār, chemise and any other garment drag is blameworthy in all cases. End quote.

It says in *Hāshiyat al-'Adawi* (2/453): There is a difference of opinion concerning that which comes lower than the ankles if it is not done out of arrogance. Al-Hattāb – a Māliki scholar – concluded that it is not harām, rather it is makrūh. Al-Tadhkirah – a book by Imam al-Qurāfi – concluded that it is harām. It seems that the most likely to be correct is the view that it is emphatically makrūh. End quote.

With regard to the Shāfi'is, they stated that it is not harām unless it is done with the intention of showing off. Imam al-Shāfi'i ﷺ said, as was quoted from him by al-Nawawi in al-Majmū' (3/177): It is not permissible to let the garment hang low when praying or

otherwise in order to show off. As for letting the garment hang low for reasons other than showing off when praying, it is not as serious, because of the Prophet ﷺ said to Abu Bakr ﷺ when he told him that his izār slipped down on one side: "You are not one of them (i.e., those who let the garment hang down out of pride)." End quote.

And al-Nawawi said in Sharh Muslim (14/62): It is not permissible to let the garment hang down below the ankles if it is done in order to show off. If it is done for any other reason then it is makrūh. The apparent meaning of the ahādīth, which limit it to letting the garment drag in order to show off, indicates that it is harām specifically when done to show off. This was stated by al-Shāfi'i who differentiated between different cases. End quote.

Some of the Shāfi'is – such as al-Dhahabi and al-Hāfiz Ibn Hajar – were of the view that it is harām. Al-Dhahabi said in Siyar A'lām al-Nubalā' (3/234), in response to the one who lets his garment hang below the ankle and says 'I am not doing that to show off': You see him behaving in an arrogant manner and thinking of himself as not one of them (those who are arrogant), but this is a foolish notion. And you see him looking at a text that is general in meaning, and he limits its meaning on the basis of another, separate hadīth, to conclude that it is only harām when it is done in order to show off! So he allows a concession based on the words of al-Siddīq (Abu Bakr), who said: O Messenger of Allah, my izār slips down, and he said: "O Abu Bakr, you are not one of those who do that to show off." We say: Abu Bakr ﷺ did not tie his izār in such a way that it hung below the ankles in the first place, rather he tied it so that it came above the ankle, but it slipped down after that.

And the Prophet ﷺ said: "The izār of the believer should come to mid-calf, but it does not matter if it comes between (that point) and the ankle." The same prohibition applies to the one who lets his trousers cover his ankles, or makes his sleeves too long. All of that is showing off which is deeply hidden in the psyche. End quote.

With regard to the Hanbalis, they stated that it is not harām. It says in al-Iqnā' (1/139): It is makrūh for a man's garment to come below his ankle unnecessarily. End quote.

Ibn Qudāmah said in al-Mughni (2/298): It is makrūh to let the chemise, izār and trousers come below the ankle, and if he does that in order to show off then it is harām. End quote.

Ibn Muflih said in al-Adāb al-Shar'iyyah (3/521): Shaykh Taqiy al-Dīn (Ibn Taymiyyah ﷺ) favoured the view that it is not harām, but he did not mention whether it is makrūh or not. End quote. See: Sharh al-'Umdah by Shaykh al-Islam Ibn Taymiyah (p. 361-362).

Al-San'āni ﷺ was of the view that it is harām, and he wrote a book concerning that entitled *Istifa' al-Aqwāl fi Tahrīm al-Isbāl 'ala al-Rijāl*. The view that it is harām is the view favoured by most of our contemporary scholars, such as Shaykh Ibn Bāz, Shaykh

The example of his word and deed is his explanation on how to pray, with his speech as in the narration of the man who prayed badly in his prayer where he said ﷺ: 'If you go to pray, complete the ablution properly, then face the Qiblah and say "Allahu akbar"...' until the rest of the narration.[1]

And through his actions also, as in the narration of Sahl Ibn Sa'd as-Sādi ؓ that the Prophet ﷺ was on the pulpit and said 'Allahu Akbar', and the people behind him did the same while he was on the pulpit ... and in the same narration he turned and said to the people: 'I have done this so that you may follow me and learn my prayer.'[2]

Ibn 'Uthaymīn, Shaykh Ibn Jibrīn, Shaykh Sālih al-Fawzān, the scholars of the Standing Committee for Issuing Fatwas and others.

[1] Narrated by Bukhari (6251) and Muslim (397) Book of Prayer, 11 - Chapter: Obligation of reading Surah Fatihah in every rak'ah, and that if a person cannot learn it then he should read whatever else that is easy for him.

[2] Bukhari (917) Book of Friday prayer, 26 - Chapter: sermon on the pulpit; and Muslim (544) Book of the masjid, 10 - Chapter: Permissibility of taking one step or two in the prayer.

THE APPARENT AND THE INTERPRETED



The Definition of Apparent (Ad-Dhāhir)

Apparent linguistically means clear and manifest. And technically it means: **whatever shows by itself of the most likely meaning with the possibility of other meanings.**

An example of this is the saying of the Prophet ﷺ: 'Make ablution after (eating) camel meat'[1], the apparent meaning which is intended by the word 'ablution' is the making of the ablution that has been legislated and not just washing yourself.

What is excluded from our words 'whatever shows by itself of the most likely meaning' is whatever is al-Mujmal because it does not point to a meaning by itself.

And what is also excluded from our words 'most likely meaning' is the Interpreted because it points to the less correct view had it not been for a qareenah (outside factor).

And what is also excluded from our words 'with the possibility of other meanings' is the clear text; because it only carries one meaning.

[1] The wording of both are from Ahmad (4/352), which is narrated by Abu Dawūd (184) Book of Purification, making ablution after eating camel meat narration of al-Barā, and others from the authors. Also in Muslim (360) Book of menstruation, 25 - Chapter: Ablution after eating camel meat, from the narration of Jābir.

Acting upon the Apparent (text)

Acting upon the apparent text is obligatory unless there is an evidence that takes it away from its apparent meaning and that it is a more cautious approach, safer in fulfilling your responsibility and stronger for your worship (to Allah) compliance (to the legislation).

The Definition of the Interpreted (Al-Mu'awwal)

Al-Mu'awwal linguistically comes from the word 'al-awal': which means the first, and also returning. And technically, it means when the wording holds the less likely meaning.

So what is excluded from our words 'when the wording holds the less likely meaning' is the text and Apparent. As for the text, it has the possibility of only one meaning, as for Apparent, then it holds the most likely meaning.

And interpretation is of two types: acceptable and rejected.

1. The acceptable (interpretation) is what is indicated by sound evidence; such as the saying of the Most High: **'and asked the village (i.e. the people of it).'**
As for the village then it is not possible to ask it directly.
2. The rejected (interpretation) is what one does not have sound evidence (to support it), such as the interpretation of the Mu'atilah (deviant sect) regarding the saying of the Most High:

﴿ ٱلرَّحۡمَٰنُ عَلَى ٱلۡعَرۡشِ ٱسۡتَوَىٰ ﴾

'The Most Merciful rose above the Throne.' (20:5)

[They changed the meaning of Istawa (rose)] to the meaning of 'Istawlah': to conquer, whereas it's correct interpretation is of highness and establishment without asking how or making similitudes.

ABROGATION (AN-NASKH)



The definition

Abrogation linguistically means removal and to copy. And technically it means **to remove a legal ruling or its wording, with another evidence from the Qur'an and the Sunnah.**

What is meant by our words 'remove a ruling' is, for example, to change from an obligation to permissibility or from permissibility to prohibition.

What is not meant by this is the non-implementation of a ruling because of a condition or the presence of a preventative factor, such as the lifting of the obligation of Zakah because of not meeting the limit set, or the obligation of the prayer due to the presence of menstruation; these are not referred to as Abrogations.

What is meant by our words 'or its wording' is the wording which is a legal proof because abrogation can either be the ruling without the wording or vice versa or both; as we shall see below.

And what are not included by the words 'based on evidence from the Quran and Sunnah' are evidences from consensus and analogy, as they cannot abrogate.

And abrogating is acceptable, intellectually, and is a legal (Shariah) reality.

As for acceptable through reason: then it is because in Allah's hand is total power and authority, because the Lord is the owner, He may legislate whatever his wisdom and mercy necessitates for His slaves, so does the intellect prevent us from seeing that the possessor orders those He possesses however He wants? His wisdom and mercy with his servants also necessitates that He legislates for them what is in their best interests in the worldly life and the hereafter, and benefits differ from time to place. So one ruling at a certain time or state may be more beneficial for the slaves than at another time, and Allah is All-Knowing and the All-Wise.

As for its occurrence in the Shariah then the evidences are many; from them:

1. The saying of the Most High:

﴿ ۞ مَا نَنسَخْ مِنْ ءَايَةٍ أَوْ نُنسِهَا نَأْتِ بِخَيْرٍ مِّنْهَآ أَوْ مِثْلِهَآ ۗ أَلَمْ تَعْلَمْ أَنَّ ٱللَّهَ عَلَىٰ كُلِّ شَىْءٍ قَدِيرٌ ﴾

'We do not abrogate a verse or cause it to be forgotten except that We bring forth [one] better than it or similar to it.' (2:106)

2. The saying of the Most High:

﴿ ٱلْـَٔـٰنَ خَفَّفَ ٱللَّهُ عَنكُمْ ﴾

'Now, Allah has lightened [the hardship] for you.' (8:66)

﴿ فَٱلْـَٔـٰنَ بَـٰشِرُوهُنَّ ﴾

'So now, have relations with them.' (2:187)

This text was revealed to change the previous ruling.

3. The saying of the Prophet ﷺ: 'I used to forbid you from visiting graves so visit them (from now on).'[1] This text abrogated the prohibition of visiting the graves

What Prevents Abrogation Taking Place

Abrogation is prevented from the taking place in the following:

1. **News**, because abrogation only deals with rulings, as abrogation of one of the two pieces of news means one of them has to be a lie, and lying is impossible in news that Allah and His Messenger bring. In the case where the ruling comes in the form of news, then this can be abrogated as in the saying of the Most High:

﴿ إِن يَكُن مِّنكُمْ عِشْرُونَ صَٰبِرُونَ يَغْلِبُوا۟ مِا۟ئَتَيْنِ ﴾

'If there are among you twenty [who are] steadfast, they will overcome two hundred.' (8:65)

This is an order in the form of news, therefore the abrogation came in the very next verse, and it is the saying of the Most High:

[1] Narrated by Muslim, 25 (977) Book of Funerals, 36 - Chapter: The seeking of permission by Prophet from him Lord to visit the grave of his mother. See: Book of sacrifice, 5 - Chapter: statement of what was from the Prophet, peace be upon him concerning the eating of the meat of the sacrificial animals after three in the beginning of Islam, and the explanation of its abrogation and its permissibility until whenever he wants.

﴿ ٱلْـَٔـٰنَ خَفَّفَ ٱللَّهُ عَنكُمْ وَعَلِمَ أَنَّ فِيكُمْ ضَعْفًا ۚ فَإِن يَكُن مِّنكُم مِّائَةٌ صَابِرَةٌ يَغْلِبُوا۟ مِا۟ئَتَيْنِ ۚ وَإِن يَكُن مِّنكُمْ أَلْفٌ يَغْلِبُوٓا۟ أَلْفَيْنِ بِإِذْنِ ٱللَّهِ ۗ وَٱللَّهُ مَعَ ٱلصَّـٰبِرِينَ ﴾

'Now, Allah has lightened [the hardship] for you, and He knows that among you is weakness. So if there are from you one hundred [who are] steadfast, they will overcome two hundred.' (8:66)

2. The rulings that are of benefit in every time and place, such as **Tawhīd**, the principles of faith, worship and morals of honesty and chastity, generosity, courage, and so on, cannot be abrogated. Likewise the prohibition of all that is evil in every age and place like Shirk and kufr as well as bad character such as lying, immorality; greed and cowardice etc., since the laws are for the well-being of people and to repel evil from them.

Conditions of Abrogation

The conditions for Abrogation that are required for what can be abrogated include:

1. Two evidences that cannot be combined, because if they can be, then there is no abrogation since the possibility to act on both of them exits.

2. Knowledge of the fact that the abrogating text was revealed later, known either through a text, something learnt from a companion or via history.

An example of knowledge that is known to have

come later is the saying of the Prophet ﷺ: 'I authorized you to enjoy women (through temporary marriage), indeed Allah has now forbidden it until the Day of Resurrection.'[1]

And an example of knowledge reaching us by way of information from a companion is the statement of Ā'ishah ﵂ who reported that it had been revealed in the Holy Qur'an that ten clear breast feedings make the marriage unlawful, then it was abrogated (and substituted) by five breast feedings.[2]

And an example of knowledge garnered through history occurs in the saying of the Most High: **'Now Allah has lightened the burden from you.'**
The word 'now' indicates that this ruling is the latter (of whatever preceded it of the same issue). Similarly, if it were stated that the Prophet ﷺ gave a ruling for something before the migration, and then gave another ruling after that which opposed the first then the second one would be counted as the abrogating one.
3. Validating the abrogating text. The majority has stipulated that the abrogating text be stronger than what it is abrogating or at least similar, therefore the

[1] Narrated by Muslim (1406) Book of Marriage, 3 - Chapter: Mut'ah (temporary marriage) and an explanation that it was permissible, then that was abrogated and then permitted to then finally be abrogated and the prohibition will last until the Day of Resurrection; and Ahmad (3/405/15387).

[2] Narrated by Muslim (1452) book of breastfeeding, 6 - Chapter: Prohibition because of five feedings. (Once someone is breastfeed five or more times he is related to the woman feeding him as if he or she was born from her, thereby not being allowed to marry her other children etc.)

mutawātir (the narration that has multiple narrators) would not be abrogated by narrations that are ahād (narrations that have a single narrator at each level of the chain), even if it is established (as a correct narration), what is most correct is that it not be stipulated whether or not the abrogating text be stronger or similar, reason being the purpose of the abrogation is the ruling, and so it should require it to be mutawātir for it to take place.

Parts of Abrogation

Abrogation is divided into three segments with regards to the abrogated text:

1. When the ruling has been abrogated and the wording has remained, this is frequent in the Qur'an. An example of which are the two verses of patience:

﴿ إِن يَكُن مِّنكُمْ عِشْرُونَ صَٰبِرُونَ يَغْلِبُوا۟ مِا۟ئَتَيْنِ ﴾

'If there are among you twenty [who are] steadfast, they will overcome two hundred;' (8:65)

Its ruling abrogated by the saying of the Most High:

﴿ ٱلْـَٰٔنَ خَفَّفَ ٱللَّهُ عَنكُمْ وَعَلِمَ أَنَّ فِيكُمْ ضَعْفًا ۚ فَإِن يَكُن مِّنكُم مِّا۟ئَةٌ صَابِرَةٌ يَغْلِبُوا۟ مِا۟ئَتَيْنِ ۚ وَإِن يَكُن مِّنكُمْ أَلْفٌ يَغْلِبُوٓا۟ أَلْفَيْنِ بِإِذْنِ ٱللَّهِ ۗ وَٱللَّهُ مَعَ ٱلصَّٰبِرِينَ ﴾

'Now, Allah has lightened [the hardship] for you, and He knows that among you is weakness. So if there are from you one hundred [who are] steadfast, they will overcome two hundred. And if there are among you a

thousand, they will overcome two thousand by the permission of Allah. And Allah is with the steadfast.' (8:66)

And the wisdom of abrogating the ruling and not the verse is to allow the reward of reciting it to remain, and a reminder to the Muslim nation of the wisdom of abrogation.

2. When the wording has been abrogated but the ruling remains, such as the verse of stoning. Indeed it has been established in [Sahihs] Bukhari and Muslim from the narration of Ibn Abbās ﵄ that Umar bin Al-Khattāb ﵁ said: 'The verse of stoning was amongst the other verses that Allah revealed in the Qur'an so we read it and understood it properly and the Prophet ﷺ stoned and we stoned after him, but I fear after a the passing of time people will come to say: "By Allah we do not find the verse of atoning in the Book of Allah!" So they will become misguided by leaving an obligation that Allah has revealed, even though stoning is in the Book of Allah, a right on those that commit fornication / adultery from the chaste men and women, and if the evidence is established, the woman is pregnant or if there is an acknowledgment.'[1]

The wisdom of abrogating the wording but not the ruling is to test the ummah to see if they will act upon

[1] Narrated by Bukhari (6829) Book of punishments. 30 - Chapter: Acknowledgment of adultery; and Muslim (1691) Book of punishments. 4 - Chapter: stoning the married women for committing adultery.

something that is not in the Qur'an and fulfilling their belief in what Allah has revealed the exact opposite of the state of the Jews that tried to hide the verse of stoning in the Torah.

3. What has been abrogated both in wording and ruling: such as the abrogation of the ten breast feedings as in the previous narration of Ā'ishah ﵂.

Abrogation is divided into four categories with regards to the abrogating text

1. Abrogation of the Qur'an by Qur'an like the verses of patience (mentioned above)[1]
2. Abrogation of the Qur'an by the Sunnah: I have not found a proper example for this.
3. Abrogation of the Sunnah by the Qur'an; an example of which is the abrogation of facing the Sacred House in Jerusalem which was established by the Sunnah, to facing the Ka'bah which was in turn established by the saying of the Most High:

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[1] [Publishers note] As regards the number of verses that scholars have concluded are abrogating verses, their findings differ, with opinions ranging from:

- 214 cases (Ibn Hazm)
- 105 (Abu Bakr Ibn Al Arabi)
- 7 (Ash Shanqiti), with the lowest number being:
- 5 cases (Waliullah ad-Dehlawi)

There are also other opinions numbering between the 214 (highest) and 5 (lowest). For more details, refer to 'An Introduction to the Sciences of the Quran.' Published by Al Hidaayah Publishing.

﴿ فَوَلِّ وَجْهَكَ شَطْرَ ٱلْمَسْجِدِ ٱلْحَرَامِ ۚ وَحَيْثُ مَا كُنتُمْ فَوَلُّوا۟ وُجُوهَكُمْ شَطْرَهُۥ ﴾

'So turn your face toward al-Masjid al-Haram. And wherever you [believers] are, turn your faces toward it [in prayer].' (2:144, 149, 150).

4. Abrogation of the Sunnah by the Sunnah, and example of which is the saying of the Prophet ﷺ: 'I had forbidden you from the drinking (and preparation of) Nabidh in the vessels made out of leather, but (now) you may drink in all vessels, but do not drink intoxicants.'[1]

The Wisdom of Abrogation

There are many wisdoms for Abrogation; from them:

1. Taking into account the interests of people by legislating what is best for them in their religious and worldly affairs.
2. Gradually developing the legislation until it reaches perfection.
3. Testing the mukallafeen, their readiness to accept the transition from one rule to another and being content with it.

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[1] Narrated by Ahmad (3/237/13512) and Abu Y'alā (6/373/3707) Haythami said in Al-Majmah (5/66) in the chain is Yahya bin Abdullah Al Jābir, and the majority have declared him weak. Ahmad said: there is no problem with him, and the rest of the men are trustworthy.

4. Testing the mukallafīn to see if they give thanks for when the abrogation makes things lighter for them, to see if they are patient when the abrogating text is harder for them.

AL-AKHBĀR



The Definition

Al-Akhbār linguistically means news. But what is intended here is: **what is attributed to the Prophet ﷺ from his speech, actions, tacit approval or description.**

Much has been said previously about the rulings of the (Prophet's ﷺ) speech.

[Types of Actions of the Prophet ﷺ]

As for his actions then they are of different types:

1. What he did that was part of his natural disposition, such as eating, drinking and sleeping; they do not constitute rulings in and of themselves but may be commanded or prohibited due to a reason, or that natural habits have a description that is sought, such eating with the right hand, or prevented from, like eating with the left hand.
2. What he did according to his habit, like the description of his clothes which itself is permissible but may be a commanded or forbidden for us depending on other factors.
3. What he did that was specifically for him, which would therefore be only for him such as continuously

fasting for days without breaking the fast in between or marrying women that would present themselves (without a guardian).

Exclusivity must not be ruled for something unless there is evidence, because the norm is to follow his way.

4. What he did in worship to Allah was obligatory for him until he received the order making this a duty to proclaim the obligation of it, then it would be recommended for him and us based on the most correct opinion, that is because of the fact that if he did something, it indicates that it has basis in the Shariah, so the norm is that there is no punishment for leaving the action, as it is legislated without any punishment for leaving it, and this is the reality of mandūb (recommended).

An example of that is the narration of 'A'ishah when she was asked what the Prophet ﷺ began with when he entered his house? She ﵂ said: "With the siwak[1];" there is nothing in the siwak whilst entering the house except an action, so it is mandūb.

Another example is the Prophet ﷺ wiping his beard by passing his fingers through from behind his beard to the front in a combing motion during wudoo

[1] Narrated by Muslim (253) Book of Purification, 15 - chapter: siwāk. And Abu Dawūd (51) book of Purification, concerning a man using someone else's miswak; and An-Nasā'i in Mujtaba (8) Book of Purification, 8 – Chapter: siwāk all the time; and Ibn Mājah (290) book of Purification and its practices, 6 - Chapter: reward of the pure.

(ablution)[1], this action is not considered a part of washing the face, until there is a clarification of the ambiguity (of the word face); and it is only an action so it reaches the level of mandūb.

5. What he did demonstrating the ambiguity of the texts from the Qur'an and the Sunnah; this was compulsory for him until the explanation was received that he must proclaim it, then the ruling of that text was clarified with regards to him and us; if it is obligatory then that action is becomes obligatory, and if it is recommended then that action becomes recommended.

An example of an obligation is the obligatory actions of the prayer that the Prophet ﷺ did, thereby removing the ambiguity of the saying of the Most High:

﴿ وَأَقِيمُوا الصَّلَوٰةَ ﴾

'And establish the prayer.' (2:43)

An example of mandūb: His praying of two units behind the station of Ibrahim after completing the tawaf enacting[2] the saying of the Most High:

﴿ وَاتَّخِذُوا مِن مَّقَامِ إِبْرَاهِيمَ مُصَلًّى ﴾

'And take the station of Ibrahim as a place of prayer,' (2:125) by going towards the station of Ibrahim, while reading this verse, and offering two rak'ahs as a Sunnah.

[1] Narrated Tirmidhi (29,30) and (31) Book of Purification, 23 - Chapter: Wiping the beard with the hand using the fingers like a comb.

[2] Narrated by Muslim (1218) Book of Hajj, 10 - Chapter: Hajj of the Prophet ﷺ.

As for his approval then it is an evidence of the permissibility of that thing in the way approved by the Prophet ﷺ, whether it is a statement or an action.

An example of his approval in speech is his approval of the slave girl that he asked; 'Where is Allah?' She said: 'Above (fi) the sky.'[1]

An example of his approval of an action is his approval of the person that was part of a small army unit, he used to read surah Ikhlas at the end of every rak'ah, so the Prophet ﷺ said: 'Ask him why he does that?' so they asked him and he said: 'It has a description of the Most Merciful and I love to read it;' so the Prophet ﷺ said: 'inform him that Allah loves him.'[2]

Another example is his approval of the Abyssinians playing in the masjid[3] in order to bring them closer to Islam.

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[1] Narrated by Muslim (537) Book of Masjids, 7 - chapter: prohibition of speaking in the prayer and the abrogation of its permissibility; and Malik in Muwatta 2/776/1468 the book of emancipation, 6 - Chapter: What is permissible from the emancipation of those that have to be. Imam Al-Baihaqi, one of the Imams who narrated this hadith said: 'Abu Abdullah Al-Hāfidh said that Shaykh Abu Bakr Ahmad bin Ishāq Bin Ayoub Al-Faqih said "Sometimes the Arabs replace 'Ala (above) with fi (in). (For example) Allah said **'So travel freely in (fi) the land'** (9:2)...meaning 'on ('ala) the earth" and similarly **'I will surely crucify you in (fi) the trunks of date-palms'** (20:71) [meaning 'on ('ala) the trunks']. Similar is the saying of Allah 'Fi as-sama' which means 'on the throne, above (fauq) the sky', as is is proven in authentic narration. (*Al-Asmā Wa Al-Sifāt by Al-Baihaqi* vol 2, p 425).

[2] Narrated by Bukhari (7375) Book of **Tawhīd**, 1 - Chapter: Calling of the Prophet's ﷺ nation to the oneness of Allah the Blessed the Most High; and Muslim (813) Book of prayer, 45 - The chapter: The virtues of reading Surah Al-Ikhlas (Say God is One).

[3] Bukhari (454) Book of Prayer, 69 - Chapter: people of mihrāb in the masjid; and Muslim (982) (18) book of the two Eid prayers, 4 - Chapter: The permissibility of play in which there is no sin on the days of Eid.

As for what happened during his time that he was not aware of, then it cannot be attributed to him, but it is an evidence of Allah's approval of it, hence the companions ﷺ used as evidence the permissibility of 'Azl (coitius interruptus) because of Allah's approval of it, saying that 'we used to practice 'Azl while the Qur'an was being revealed.' (agreed upon)[1] and Muslim added: 'Sufyan said: "had there been something to prohibit, then the Qur'an would have done so."'

What demonstrates that the approval of Allah is an evidence, is the fact that the reprehensible acts which the hypocrites were trying to conceal were exposed by Allah the Most High and condemned, which therefore shows that what He kept silent about was permissible.

The categories of news in light of who they are attributed to

News is divided into three categories with regards to who they are attributed to: Marfū', Mawqūf and Maqtū'.

1. **Marfū':** What is attributed to the Prophet ﷺ in actual terms or through a judgment (he passed).

As for Marfū' in actual terms, it is the words of the Prophet ﷺ, his actions and tacit approvals.

And Marfū' through judgment is what is attributed to his Sunnah, or his reign or the like, and whatever shows that he had no direct contact with, such as the saying of a Companion: 'we have been commanded or

[1] Bukhari (5207) Book of Marriage, 96 - Chapter: Isolation. Muslim (1440) Book of Marriage, 22 - Chapter: Ruling of Isolation.

forbidden,' etc., as in the words of Ibn Abbas ﷺ: 'The people were commanded to make the last thing they do before leaving Makkah: tawaf of the Ka'bah, except for the menstruating women',[1] And the words of Umm 'Atiyah: 'We were forbidden to follow the funeral procession...'[2]

2. Mawqūf: What is attributed to a Companion but not proven to be from the Prophet himself, then the most correct opinion is this can be used as an evidence[3] except

[1] Bukhari (1755) Book of Hajj, 144 - Chapter: Farewell tawāf. Muslim (1328) Book of Hajj, 67 - The chapter: Obligation of the farewell tawāf except for menstruating women.

[2] Bukhari (1278) Book of Funerals, 11 - Chapter: Prohibition of women following the funeral procession.

[3] [Publishers note] Shaykh Uthaymin said: 'So the scholars –May Allah have mercy on them, differ concerning the saying of a companion as to whether it is a proof or not. And what is intended by 'the saying of a companion' here is that which is not established as having the ruling of being marfu (attributed to the Prophet ﷺ).

'So from the people of knowledge are those who say: It is a proof. And their reasoning for that is that the companions are closest to that which is correct due to witnessing the Prophet and knowing from his sayings, actions and circumstances that which others do not. Also due to the sincerity of the intention and their being far from following their desires. Additionally, because they are the best of this nation as testified to by the Prophet in his saying: **"The best of people are my generation, then those after them, then those after them"**, (Bukhari & Muslim) and because they have precedence over others in the book of Allah: **"And the first forerunners [in the faith] among the Muhajireen and the Ansar and those who followed them in good,"** (9:100) So His saying: **"And those who followed them in good,"** so this is evidence that there are for them sayings that they are to be followed in. So these perspectives are evidence that the saying and actions of the companions are a proof.

'And some of the people of knowledge say: Indeed it is not a proof except concerning that which Allah and His Messenger say. Due to the saying of Allah, the Most High: **"Messengers as bearers of good news as well as of warning in order that mankind should have no plea against Allah after the Messengers,"** (4:165) and His saying: **"He who obeys the Messenger, has indeed obeyed Allah, but he who turns**

away, then we have not sent you as a watcher over them," (4:80) and His saying: **"And whatsoever he forbids you, abstain (from it)."** (59:7)

'And it is known that if we follow/imitate the companions we have obeyed other than the Messenger and taken other than the saying of the Messenger. And this is not a proof over (and above) what he obligates, neither over (and above) that which he legislates.

'Also because the companions, May Allah be pleased with them, are like other than them who are not protected /infallible (ma'sūm) from mistakes and forgetfulness.

'And that which has been mentioned from the descriptions which have (just) preceded and which are used as evidence by those who say: 'Indeed their saying is a proof' then we believe in it, but this does not necessitate that whatever they say from that which there is no text for is a proof which obligates us to follow it. For example, their saying that they witnessed the Messenger and knew from his sayings, actions and circumstances that which others didn't. This is a matter that there is no differing over but it does not necessitate that what they said or did is a proof, this is because they made mistakes, even though their mistakes were less than others.

'As for their being the best of generations, then there is no doubt concerning that, however, this does not necessitate that their sayings are a proof because the proof is in whatever Allah and His Messenger say.

'And as for the saying of Allah, the Most High: **'And those who followed them in good'** then the meaning of that is that they follow their path in accepting the book of Allah and the Sunnah of His Messenger and not making the saying of any of the people equal to the saying of Allah and His Messenger.

'And as for their sincerity to Allah, then there is also no doubt concerning this. However, this does not necessitate that their saying is like that which comes in the Book and the Sunnah, that is: concerning obligations to take it.

'And in reality, the saying that their saying is not a proof is a strong saying. However, there are evidences that the Messenger expressed that the sayings of some of them is a proof. For example, His saying: **'Adhere to those who come after me, Abi Bakr and Umar'** (At Tirmidhi, 3663 and Ibn Mājah 97) and this is an explicit text concerning their (Abi Bakr and Umar) sayings being a proof.

[About this hadith, Shaykh Muqbil said in 'Ahadith Mu'alla' No.120: 'And Hilal, the mawla of Rabi' is unknown. And Al Manawi in 'Fayd Al Qadir' added that Ibn Hajr said: Indeed Abu Hātim regarded it as defective due to Rabi' bin Hirash having not heard from Hudhayfah. And that which has been mentioned that the hadith of of Ibn Masud and Anas strengthen it is not salih because it is munqati and those narrations only make the weakness more severe. Allah knows best.']

Shaykh Uthaymīn said: 'So if it is said, it means: Adhere to/follow those who come after me in that which they did from my sunnah.

in the case where it contradicts a text (from the Qur'an and Sunnah) in which case we go by the text, or that it contradicts the statement of another Companion, then the most correct opinion is taken of the two.

A Companion is whoever met the Prophet ﷺ, believed in him and died upon that.

3. Maqtū': what is attributed to a Tābi'ī and anyone after him.

The Tābi'ī is whoever met a Companion as a believer and died upon that.

Categories of news with regards to its chains (of narration)

'The response to that is if we follow this path in taking from the hadith then the hadith is devoid of benefit because following anyone who takes from the sunnah of the Messenger is something we have been ordered with. And if those who we follow are from the 7th or 10th generation then it is not restricted to Abu Bakr and Umar.

'Then indeed, The Messenger of Allah said concerning that which is sahih regarding it in Sahih Muslim: **"If you had obeyed Abu Bakr and Umar, you would have been guided,"** and this is clear that their sayings are guided and the guidance is that which the Shariah comes with as Allah the Most High says: **"And know that, among you there is the Messenger of Allah. If he were to obey you (i.e. follow your opinions and desires) in much of the matter, you would surely be in trouble, but Allah has endeared the Faith to you and has beautified it in your hearts, and has made disbelief, wickedness and disobedience hateful to you. These! They are the rightly guided ones."** (49:7)

'And that which is verified concerning these issues is that it is said: As for whoever there is a text from the Prophet ﷺ that their saying is a proof, then without doubt it is a proof, such as Abu Bakr and Umar.

'And as for other than them, then whoever from the scholars of the companions was famous for their understanding and known for their leadership, then indeed following them is given precedence over following Imam Ahmad, Ash Shāfi'ī, Abu Hanīfah, Mālik and those who resemble them.'

The Shaykh then went onto mention a third category: 'Whoever is not known with this, then the saying that their saying is a proof, this is far from correct.' (Sharh Usūl Min Ilm Al Usūl)

News can be divided into Mutawātir and Ahād with regards to its chain of narrations:

1. Mutawātir: what many people narrated making it normally impossible for them to have conspired together upon a lie, and assigning it to something tangible. An example would be the saying of the Prophet ﷺ: 'Whoever lied on me deliberately, let him take his seat in the Fire.'[1]

2. Ahād: Whatever is lesser than mutawātir. And it is graded into three levels: sahih (authentic) Hasan (good), and da'īf (weak).

Sahih: What is narrated by someone upright with precise and complete recollection and a connected chain of narration, void of any anomalies or hidden defects.

Hasan: What is narrated by someone generally pious, of reasonable precision and recollection with a connected chain of narration, void of any anomalies or hidden defects, it may reach the level of sahih if there are many chains of narrations and it is called: **Sahih due to others** (i.e. supporting chains of narration) or:

[1] Bukhari (110) Book of Knowledge, 38 - The chapter: of the sin of lying on the Prophet, peace be upon him; and Muslim (4) introduction, 2 - Chapter: The severity of lying on the Messenger of Allah ﷺ from Abu Hurayrah, Muslim (without) introduction, 1 - The chapter: obligation of narrating from trustworthy narrators and rejecting liars and the warning of lying on the Messenger of Allah ﷺ from the narration of Al-Mugīrah bin Shu'bah and Samrah bin Jundub. Refer to Al-Fath (1/203-204).

Da'īf (weak): which is whatever does not meet one of the conditions of Sahih or Hasan.

It (the da'īf hadith) may reach to the level of Hasan if the chains of narration are numerous, in a way that each narration supports the other, it is known then as: **Hasan due to others** (supporting chains of narration).

Each of these categories are regarded as evidences except the da'īf (weak) narration, which is not an evidence, although there is no harm in mentioning them as supporting evidence (for things already established via. authentic means).

Modes of narrating

There are different wordings used in narrating:
In respect to narrations, there is 'Tahammul' and 'Adā':

- **Tahammul** is taking the narration from others.
- **'Adā'** is to propagate the narration to others.

For Adā there are various formats including:

1. **'Hadathanī' (he narrated to me):** For whose sheikh reads to him.
2. **'Akhbāranī' (he informed me)**: For the one whose sheikh read to him, or that he reads to his Sheikh.
3. **'Akhbāranī Ijazah' or 'Ajaza lī'**: For those that narrated with 'Ijazah' without reading.

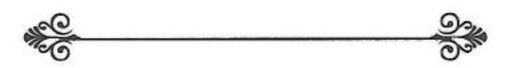
The 'Ijazah' is the permission of the sheikh (teacher) for the student allowing him to narrate from him what

he the sheikh has narrated, even if was not by way of reading.

4. 'Anana': Is to narrate using the word 'An' (from). Its ruling is that it (the chain of narration) is connected except by someone who is known for 'Tadlīs', then it is not ruled as connected unless the narrator explicitly says it was narrated to him.

In the field of Hadith science there are many types of hadith narrating, what we have pointed out here is sufficient Inshā'Allah.

CONSENSUS (AL-IJMĀ')



The Definition

Consensus linguistically means: determination and agreement. And technically it means: **an agreement between the 'Mujtahidīn' of this ummah after the Prophet ﷺ on an Islamic ruling.**

What is excluded from our word 'agreement' is the presence of disagreement, even if it is from one (scholar), otherwise consensus cannot be claimed[1].

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[1] [Publishers note] The Shaykh said in *Sharh Usūl Min 'Ilm Al Usūl* (pg 550-551): 'And especially when there is one who is known with having knowledge ('ilm) and understanding (fiqh), then indeed his opposition is taken into consideration. **"Even if it is from one"**. Ibn Jarīr ؓ, the author of the famous tafsīr was of the view that one or two people do not destroy the consensus. And that if the ummah were to have ijmā except for one man or two men and even if they were from the worshippers of Allah and from those with the greatest understanding, then indeed, the ijma is binding (valid).

'However, his saying differs from what the majority of scholars are upon. So the people of knowledge say: If opposition is found, even if from (only) one person from those whose sayings are taken into consideration, such as the jurists, then there is no consensus in this issue....Some of the scholars from the jurists do not consider the differing of the Dhāhiris or their agreement, meaning they do not give them consideration in consensus so they narrate a consensus even if the Dhāhiris differ because they see them as nothing. However, this is not correct and it is not possible that we narrate a consensus in an issue in which the Dhāhiris differ as the Dhāhiris are from the nation of Muhammad ﷺ. So it is not possible that we disregard their differing.'

Shaykh Muqbil was asked: Ibn Hazm is known - in Al-Muhalla - to be of the Dhahiri school of thought, so is all his speech taken, seeing as you recommend it (Al-Muhalla)? He answered: 'The book Al-Muhalla of Ibn Hazm is considered a book of

And what is excluded from our word 'Mujtahidīn' are the common people and blind followers, as their agreement or disagreement (on an issue) is not paid any attention.

And what is also excluded from our words 'this ummah' is the consensus of other nations as it also has no bearing.

And what is not included by the words 'after the Prophet ﷺ' is their (the Companions') agreement during the time of the Prophet ﷺ, then this not considered a consensus in terms of being an evidence, because the evidence is obtained from the Sunnah of the Prophet ﷺ, from what he said did or approved of, as such if a Companion said: 'we used to do,' or 'they used to do such-and-such a thing during the time of the Prophet ﷺ'; then that would be a ruling that is 'marfū' (attributed to the Prophet himself) and not a consensus.

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jarh and ta'dīl and a book of authentication and weakening of hadiths, and this is not found in the books of fiqh. So if you looked to Al-Mughni or, for example, to Sharh Al-Azhār from the books of the Zaidis or if you looked to the books of the Hanafis and so forth, even to Al-Majmu' of Al-Nawawī which is considered from the best books of fiqh, you won't find this authentication, weakening, tracing, documentation or discovering of forgeries (with the chains of narration of hadith) to see what is false.

'As for opinions in which Ibn Hazm differed with the Book and the Sunnah, or his attacks on some of the scholars, then we are free (of that). As for the Zahiri school of thought then what we advise every Muslim with is to be a Zahiri. Similarly, Al-Shawkānī ﷺ noted in the biography of Abu Hayyan, the author of Al-Bahr Al-Muheet that whoever came to know the Zahiri school of thought cannot leave it or change (his school of thought).

'Ash-Shawkānī said, because it's truth, the stagnation (of the school) does not stifle me from the school of Abu Muhammad bin Hazm ﷺ. So we do not call to taqlid (blind following) of him...then he (Al-Shawkānī) noted that if taqlid was permissible, we would have made taqlid of the Sahaba ﷺ.' (Ijabat al-Sa`il fi Ahamm al-Masa`il Q #320, pg.56)

And what is also excluded from our words 'an Islamic ruling' is their agreement over something intellectual or habitual, then it has no place here, as research in consensus is as evidence similar to the evidences of the Shariah.

The consensus is evidence-based on the following proofs:

1. The saying of the Most High:

﴿ وَكَذَٰلِكَ جَعَلْنَٰكُمْ أُمَّةً وَسَطًا لِّتَكُونُوا۟ شُهَدَآءَ عَلَى ٱلنَّاسِ ﴾

'And thus we have made you a just community that you will be witnesses over the people' (2:143) so His saying: 'witnesses over the people', includes witnessing over their actions and on the rulings of their actions, and the saying of a witness is acceptable.

2. The saying of the Most High:

﴿ فَإِن تَنَٰزَعْتُمْ فِى شَىْءٍ فَرُدُّوهُ إِلَى ٱللَّهِ وَٱلرَّسُولِ ﴾

'And if you disagree over anything, refer it to Allah and the Messenger' (4:59) indicates that what they agree upon is the truth.

3. The saying of the Prophet ﷺ: 'My ummah will not unite upon misguidance.'[1]

[1] Narrated Tirmidhi (2167) Book of strife, 7 - Chapter: What has come regarding sticking with the Jama'ah (main body of Muslims) and said Gharīb (strange); and Abu Dawūd (4235) Book of sedition and carnage. Chapter: Mention of fitan and its significance; and Ibn Majah (3590) The Book of sedition, 8 - Chapter: The vast majority. Al- Busayri said: 'This narration was narrated from Abu Dhar, and Abi Malik al-Ash'ari, Ibn 'Umar and Abu Nadhrah, and Qudāmah Ibn Obaidullah Al Kulabi, and in all of them there is something, as stated by Sheikh Al-Iraqi.' Nawawi declared it weak in his explanation of Sahih Muslim (13/67) and Albani in his checking of *As-Sunnah* (82).

4. So we say: The Consensus of the ummah on something is either true, and can be false. If it is true then it is an evidence, and if it is false, then how can this ummah, that is the most honourable of nations to Allah since the time of the Prophet ﷺ until the coming of the last hour, unite upon something false that Allah is not pleased with? This is from the greatest impossibilities.[1]

Types of consensus

Consensus is of two types: 'Qati' and 'Dhanni':

1. Qati': What is known to have occurred in the ummah without any doubt such as the consensus on the necessity of the five daily prayers and the prohibition of adultery, and that this type of consensus no one can deny that it is an evidence, and the one who does so, has disbelieved if he is not from those that do not know.

2. Dhanni': What cannot be known except through thorough research. The scholars have differed in the actual possibility of it being proven[2] and the most

[1] [Publishers note] The Shaykh said in: *Sharh Usūl Min 'Ilm Al Usūl* (pg 422-423): 'The scholars have differed concerning Consensus as to whether it is or isn't possible and if it is possible does it constitute a proof or not?' - up until his words:- 'Some of the people of knowledge have said it is not a proof because proof is in what Allah and His Messenger say, not in the sayings of the people and that consensus is only the saying of people, so it is not the saying of Allah and His Messenger ﷺ.' (pgs 422-423)

[2] [Publishers note] The Shaykh said: 'That is, is it possible for all of the scholars to unite upon the ruling in an issue which is from the issues whose ruling is not known by necessity in the religion? So some of the scholars said: 'It is not possible for it to be established' till his words 'And as for that which is mentioned concerning the qati' consensus then this is established by the texts so there is no need for consensus. And due to this some of the scholars were of the opinion that consensus is not a proof. And

correct view is that of Sheikh al-Islam Ibn Taymiyah who said in *Al-Aqīdatul Wāsitiyyah*: 'The consensus is what was enjoined by the salaf, for after them a lot of differences occurred and the ummah spread.'

So be aware that it is impossible for the ummah to unite against an evidence that is both clear and authentic and not abrogated, for it will not come together except upon the truth, so if you see a consensus that you think to be in opposition to that, look more carefully, either the evidence you have is not authentic, unclear, abrogated or there is a disagreement in the issue that you are not aware of.

Conditions for consensus

The conditions for consensus include:

1. That it be proven via an authentic route, so that it is either famous among the scholars or is conveyed to us from a trustworthy source who is well read.
2. It not be preceded by a firmly-based disagreement, if it is the case then there can be no consensus, because statements are not void simply because the one saying them has died.

So consensus cannot remove former disputes, rather it deters disputes from taking place at all, and this is the most correct opinion due to the strength of its

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from those who said that was Imam Ahmad, in one of the two narrations reported from him, when he said: Whoever claims consensus has lied and what does he know for perhaps they differed.' (Sharh Usūl Min Ilm Al Usūl pg 528)

objection; it has also been said: that is not stipulated, so it is correct that people in the second era gathered upon one of the statements of the previous generations then they would be an evidence for those that come after them, and in the view of the majority it is not a condition that the era of those that had consensus finish so that the consensus (from the people of consensus) thereafter, can come into play simply because they agree upon it. It is not permissible for them or other than them to object to it after that, because the evidences that show consensus to be a proof does not necessitate the ending of one era, and that consensus is achieved from the moment they agree upon something, so then who is the one that would remove it?

When some of the Mujtahideen make a statement or do an action, and it becomes well-known amongst the people of Ijtihād and they do not object to it while they have the ability to do so, then it is said that it is consensus, it is also said that it is an evidence but not consensus, and it has also been said that it is neither an evidence nor consensus. (Lastly) it has been stated that if they have passed away before making any objections then it is a consensus, because their continued silence, until they passed away while having the ability to speak against it, is itself a proof of their agreement to it, and this is the closest statement (to the truth).

ANALOGY (AL-QIYĀS)



The Definition

Analogy linguistically means appreciation and equality. And technically it means: **drawing a similarity between a subsidiary issue and a core issue in a ruling that pertains to a common element between them.**

The 'subsidiary issue' (Al-Far') is what the analogy is made for.

And the 'core issue' (Al-'Asl) is what the analogy is made from.

The 'ruling' (Al-Hukm) refers to what the evidence necessitates from an obligation, prohibition, correct or incorrect, etc.

The 'common element' refers to the meaning with which the reason for the ruling of the primary issue is made.

These are the four pillars of analogy, and analogy is one of the evidences used to establish legal rulings.

What demonstrates that its to be considered as a legal source of evidence is the Qur'an and Sunnah and the sayings of the Companions[1]

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[1] [Publishers note] The Shaykh also said: 'And the scholars –May Allah have mercy upon them, have differed concerning analogy being a proof. That is, is analogy a Shariah evidence that can establish rulings or not? So some of the people of knowledge, and at their head is the dhahiris, are of the view that analogy (al-qiyās) is falsehood and

they prohibited it. And they said that indeed those who take hold of analogy are imitiating shaytan –And Allahs refuge is sought, because the first person to use analogy and contradict the revealed texts by analogy is shaytan when Allah ordered him to prostrate to Adam' till his words: 'Meaning shaytan said: I am better than him, so how can one who is better prostrate to one who is lower.'**

And as for the majority they said: 'Indeed analogy is a shariah evidence which is confirmed in the Quran, Sunnah and in the sayings of the companions. And as for the saying of those who said that using analogy as a proof is imitating shaytan and who use as evidence the incident with shaytan when he was ordered to prostrate to Adam, we are in agreement with them that the likes of this analogy is not a proof as it clashes with the texts and analogies that clash with the texts are analogies that are not correct. As for the correct type of analogy then there is evidence for it in the Quran, Sunnah and sayings of the companions, so that is not imitating the shaytan but is imitating/following the Shariah and the clear evidence for that is about to come.' (Sharh Usūl Min Ilm Al Usūl pg 543-544)

** [While explaining the verse: **'You created me from fire and created him from clay'** in Surah Al 'Arāf, Ibn Kathir brings the narration of Al Hasan that: 'Iblis (shaytan) made analogy and he was the first to make analogy' and He (Ibn Kathir) said: 'Its chain of narration is sahih'

Shaykh Muqbil said: 'It was reported in 'Tafsir At Tabari' (12/328) and the saying of Al Hāfidh is not correct because in its chain of narration is Al Husayn as can be seen and he is Ibn Dawud and it has preceded that he is weak. So with this chain of narration it is weak (da'if).'

Ibn Kathir also quoted Ibn Sīrīn who said: 'The first person to make analogy was iblis and the sun and moon were not worshipped except due to analogy.' Ibn Kathir said: 'Its chain of narration is sahih.' Shaykh Muqbil referenced it to 'Tafsir At Tabari 12/328. See Vol 3, pg 481-482 (Tahqīq Tafsīr Ibn Kathir of Shaykh Muqbil)]

And Shaykh Muqbil was asked: Is the statement of the one who says 'Whoever rejects qiyas (analogical reasoning) has missed a third of the Sharia (Islamic law)' a correct statement?

He answered: 'Allah the Most High says in His noble Book: **"On this day I have completed for you your religion and completed my favor upon you, and favored Islam for you as a religion."**

And He - the Almighty - says **"I have explained to you in detail that which is prohibited for you"** - surely Allah the Most High explained everything in detail.

So after that, in the issue of qiyas they themselves (e.g. the people of qiyas) make analogy of wine based on khamr in combination with intoxication, and when you read the hadith the Messenger of Allah ﷺ: **"Every intoxicant counts as khamr, and khamr is prohibited,"** you know that there is no reason for this qiyas. The proof comes from the generality of the Sharia, and maybe the people of qiyas did not happen upon a proof.

Allah's help is sought and I recommend reading what Abu Muhammad Ibn Hazm wrote in his book "Al-Ihkam fī Usūl il-Ahkam" regarding qiyas.' (Ijabat al-Sa`il fi Ahamm al-Masa`il, Q#157)

Ash Shawkānī said: 'In general, the qiyas which is mentioned by the people of usul is not a shari'a evidence which is binding on any of Allahs slaves, nor is there any Shar'i evidence that indicates that it is a proof.

'As for when the illah is textually stated, then the evidence is that text which states the illah. This is because the Legislator has explicitly stated that it is taken into consideration. The same is true about claiming with certainty that there is no distinction between two scenarios. This is because two matters between which there is no distinction are actually then the same thing. Whatever is proven concerning one is proven concerning the other without one being the fundamental issue (asl) and the other being the subsidiary issue (far').

'As for the issues of qiyas, most of them are simply based on opinion which is not based on anything that can constitute proof. The clarification of that is that they have assigned 10 methods of identifying the illah (effective cause), none of them constitute evidence except that which refers back to the shariah, such as the illah being stated in a text, or that which is known from the language of the Arabs such as inclusion by way of discounting the distinction. Likewise that which is known as Qiyas al Awla (superior qiyas).'

The translator of these statements of Ash Shawkānī gave an example of Qiyas al Awla by saying: 'Where the illah is more apparent in the Far' (the new case) than it is in the asl (original case), an example would be the prohibition of alcohol due to the intoxicating effects (this is the illah). If some other substance were to be found which causes greater intoxication than even alcohol, it would be more deserving of being prohibited due to this illah.' (See the Biography of Imam Shawkānī by Darussalam, pgs 140 & 173)

Shaykh Uthaymīn said: 'And the reality is that qiyas is a hazardous door, because many mistakes have been introduced into it between the people of knowledge. So there are found from the people, those who make analogy of one issue with another issue, even though a distinction between them is established. And some of the people disapprove of Qiyas and do not affirm it at all, while some affirm it some places and negate it in other places' (Sharh Usūl Min Ilm Al Usūl, Pg 540-541)

NB: An unauthentic narration against Qiyas:

As for what some of those who deny Qiyas in these times propagate that it is a hadeeth: 'On the authority of 'Auf ibn Malik (that): Rasūlullāh said, "**My nation will split into seventy-some divisions. The greatest of them as a fitnah [test, trial] against my nation will be a people using Qiyās with their personal views, thereby they will permit the ḥarām and forbid the ḥalāl.**" They say that this was related by at-Tabarani and al-

From the Evidences of the Quran

1. The saying of the Most High:

﴿ ٱللَّهُ ٱلَّذِىٓ أَنزَلَ ٱلْكِتَـٰبَ بِٱلْحَقِّ وَٱلْمِيزَانَ ۗ وَمَا يُدْرِيكَ لَعَلَّ ٱلسَّاعَةَ قَرِيبٌ ﴾

'It is Allah who has sent down the Book in truth and [also] the balance;' (42:17) and the balance is what is used to weigh up the affairs and make analogy between them.

2. The saying of the Most High:

﴿ كَمَا بَدَأْنَآ أَوَّلَ خَلْقٍ نُّعِيدُهُۥ ۚ ﴾

'As We began the first creation, We will repeat it;' (21:104)

Hakim; al-Haithami and others said it is authentic.

The following should be noted:

As for At-Tabarānī, then he reports it in 'Al Kabīr' (18/50) its chain of narration is as follows: Yahyā Ibn Uthmān Ibn Sālih –Nu'aym Ibn Hammād –Eesā Ibn Yūnus –Harīz Ibn Uthmān –Abdur Rahmān Ibn Jubayr Ibn Nafīr –His father –Awf Ibn Mālik.

٩٠ - حدثنا يحيى بن عثمان بن صالح ثنا نعيم بن حماد ثنا عيسى بن يونس عن حريز بن عثمان عن عبد الرحمن بن جبير بن نفير عن أبيه عن عوف بن مالك عن النبي صلى الله عليه و سلم قال : ((تفترق أمتي على بضع وسبعين فرقة أعظمها فتنة على أمتي قوم يقيسون الأمور برأيهم فيحلون الحرام ويحرمون الحلال))

In Mizān Al I'tidāl: Narrator No. 9102 (Nu'aym Ibn Hammad) Adh Dhahabi said after quoting this exact chain of narration and wording that Yahyā Ibn Ma'īn was asked about this and he said: 'It has no asl (basis).' For more details refer to Mizān Al I'tidāl.

Then in Al Haithamī's 'Majma' Az Zawā'id' No. 841, 1/430 it is as follows:

٨٤١ - عن عوف بن مالك عن النبي صلى الله عليه و سلم قال : تفترق أمتي على بضع وسبعين فرقة أعظمها فتنة على أمتي قوم يقيسون الأمور برأيهم فيحلون الحرام ويحرمون الحلال. قلت : عند ابن ماجة طرف من أوله رواه الطبراني في الكبير والبزار ورجاله رجال الصحيح

So, Al Haithamī says the hadīth has been reported by At Tabarānī, but this hadīth of At Tabarānī has no basis as Yahyā Ibn Ma'īn said.

Finally, concerning the narration in Ibn Mājah, No. 3992, on the authority of Awf Ibn Mālik, it has absolutely no mention of: **'The greatest fitnah against this nation being people using qiyas with their personal views, thereby they will permit the haram and forbid the halal.'**

﴿ وَٱللَّهُ ٱلَّذِىٓ أَرْسَلَ ٱلرِّيَٰحَ فَتُثِيرُ سَحَابًا فَسُقْنَٰهُ إِلَىٰ بَلَدٍ مَّيِّتٍ فَأَحْيَيْنَا بِهِ ٱلْأَرْضَ بَعْدَ مَوْتِهَا ۚ كَذَٰلِكَ ٱلنُّشُورُ ﴾

'And it is Allah who sends the winds, and they stir the clouds, and We drive them to a dead land and give life thereby to the earth after its lifelessness. Thus is the Resurrection;' (35:9)

So in this verse Allah likened the returning of the creation with its beginning, and likened the revival of the dead with the revival of the earth and this itself is analogy.

The Evidence of the Sunnah

1. The saying of the Prophet ﷺ to the woman who asked him about making up the fast for her mother after she had died: 'What do you think if your mother was in debt and you settled it for her would that then not be lifted from her?' She said: 'Yes.' So he said: 'Then fast for your mother.'[1]

2. A man came to the Prophet and said, 'O Messenger of Allah! A black child has been born to me.' The Prophet asked him, 'Have you got camels?' The man said, 'Yes.' The Prophet asked him, 'What colour are they?' The man replied, 'Red.' The Prophet said, 'Is there a grey one among them?' The man replied, 'Yes.'

[1] Bukhari (1953) book of fasting, 24 - The chapter: Whoever dies and fasting is still remaining from him; and Muslim (1148) Book of Fasting, 27 - chapter: fasting for the Dead.

> The Prophet said, 'Where did it come from?' He said, 'Maybe it is hereditary?' The Prophet said, 'May be your new-born has this colour because it is hereditary.'[1]

Thus all the examples that are contained in the Quran and Sunnah are evidences of Analogy because they give due consideration to things that are similar.

And from the statements of the Companions is what is related about the leader of the believers 'Umar bin al-Khattāb in his letter[2] to Abu Musā Al-Ash'ari with regards to judgments; he said: 'As for understanding properly what comes to you, from those issues that are not in the Quran nor in the Sunnah, then make analogy of the affairs that are with you and know the examples, then rely on what you hold to be most beloved to Allah, and the most resembling of the truth."

Ibn al-Qayyim said: 'This magnificent letter has been received by the scholars with acceptance.'

Al-Muzanī has mentioned that the scholars from the era of the Companions to his day agreed that what resembles the truth is the truth and likewise what resembles falsehood is falsehood, and so they used the standards of analogy in fiqh for all the rulings.

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[1] Narrated by Bukhari (5305) Book of divorce, (1500) Book of the cursing person.

[2] Narrated by al-Bayhaqi (10/115) Book of the etiquettes of a judge, chapter: What the judge is required to judge by. Dāraqutni (4/206-207) Book of judgements and rulings, the letter from 'Umar to Abo Musā Al-Ash'ari. See the words of Ibn Al-Qayyim in Ighatha ul-Lahfān (1/86).

Conditions of Analogy

From the conditions of Analogy are:

1. That it does not conflict with evidence that is stronger than itself, so there is to be no consideration for analogy that conflicts with a text or consensus or the statements of the Companions; so we say: The statements of the Companions are an evidence, and Analogy that is in conflict with what has been mentioned is regarded as a corrupt analogy.

An example of that is if it was said: It is correct for a good woman to marry by herself without a guardian, making analogy with the fact that it is okay for a woman to sell something with her own money by herself without the need of a guardian. This analogy is corrupt because it conflicts directly with a text: the saying of the Prophet ﷺ: 'There is no marriage without a wali (guardian).'[1]

2. That the ruling be based on a 'Asl (primary issue) that has been established by a text or consensus, for if it has been established by analogy, then analogy of it is not correct, rather analogy is made only of the first primary established issues, going back to that is more worthy,

[1] Narrated by Tirmidhi (1101) Book of Marriage, 14 - Chapter: What has come concerning No marriage without a guardian; and Abu Dawood (2085) Book of Marriage chapter: The guardian' and Ibn Mājah (1880) Book of Marriage, 15 - The chapter: There is no marriage without a guardian; and Ahmad (1 / 250). Al-Hākim (2/185) Book of Marriage. Authenticated by him and Ibn Hibban (1243 – Al-Mawarid) Book of Marriage, 6 – Chapter: what has come concerning the guardian and the witnesses.

and as analogy of a secondary issue that has been made into a primary issue is incorrect, and as analogy of a secondary issue and then on a primary issue is elongating the process without any benefit.

For example, if one was to say usury occurs in corn out of analogy with rice, and it also occurs in rice out of analogy with corn, this type of analogy is not correct, however it should be said: usury occurs in corn out of analogy with rice, so as to make an analogy with an established primary issue that is connected to a text.

3. The cause of a ruling of a primary issue must be known, so that comparison of the subsidiary and primary issues can be made, if however the primary issue is specifically one of mere worship to Allah then the analogy is not correct.

An example of that is if it was said: ostrich meat breaks wudoo due to an analogy made with camel meat because of a similarity between them, then in response to this it is said: this analogy is incorrect because the reason of this primary ruling is not known, rather it is out of worship to Allah we do it, and this is what is well-known.

4. That the mutual reason be of a suitable meaning known in the rules of the legislation such as the intoxication of alcohol.

So if the meaning is a direct description which has no suitability in it then to draw parallels would not be correct, such as the black or white colour of something.

An example of that would be the Hadīth of Ibn Abbas ﷺ which mentions that Barīrah was given the choice when she was freed, and he said her husband was a black slave, his mentioning of him being black is a description which has no bearing on the ruling whatsoever, therefore a woman once freed is given the choice if her husband remains a slave to stay with him or not even if he is white, but she is not given the choice if her husband is free even if he is black.[1]

5. That the common cause be present in the secondary matter as it is in the primary matter such as the harm in striking the parents making analogy with using the word 'uff', so if the cause is not present in the secondary matter then the analogy does not stand.

For example, if it is said that the cause in the prohibition of usury is in the fact that it can be weighed, then it is said that this usury also occurs with apples out of analogy of wheat. As for this analogy then it is not correct, the reason being that the cause is not present in the secondary matter, as apples are not weighed.

Categories of analogy

Analogy is divided into clear and hidden:

1. Clear: What has had its cause proved through a text or consensus, or is maqtū' (statement that stops at a

[1] Bukhari (5282) The Book of divorce, 15 - Chapter: Choice of a slave girl under a male slave.

Companion) where the difference between the primary and secondary source is negated.

An example of what has its cause proved with a text is: the analogy of the prohibition of dry unclean blood used for purification after relieving oneself, with that of the prohibition of using dry dung, because the cause of the ruling of the primary issue is established through a text wherein Ibn Mas'ood ﷺ came to the Prophet ﷺ with two stones and a piece of dry dung so that he may use it to purify himself, he took the two stones and threw the dry dung, and said 'this is filth,' i.e. impure.[1]

And an example of what has been proven through consensus is: the Prophet ﷺ forbade an angry judge from passing judgment while being in an angry state.[2]

So making analogy with someone who is suffering from constipation from passing judgments by someone who is angry is a clear analogy and a case of establishing the cause of a primary text via consensus, namely the confusion of thought and being preoccupied.

And an example of what is maqtū' and negating of any difference between the primary and secondary ruling is: making analogy between the prohibition of squandering the wealth of the orphan on (one's own

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[1] Bukhari (156) Book of ablution, 21 - Chapter: Not to clean yourself with animal dung.

[2] Narrated by Bukhari (7185) book of rulings, 13 - The chapter: Does the judge pass a judgement while he is angry; and Muslim (1717) Judgements, 7 - Chapter: Dislike of a judgement passed by a judge while he is angry.

clothes) with that of squandering it on food by clearly negating the difference between them.

2. The hidden: what has the cause proven through careful devising, but the difference between the primary and secondary issues is not clearly negated.

An example is the analogy of Ashnan (a type of plant) with wheat in the prohibition of usury in all measurements, indeed finding cause in measuring has not been established by a text or consensus, and the difference between the primary or secondary issues has not been negated clearly, so it is allowed to make the distinction between them by saying wheat is eaten and ashnan is not.

Analogy of similarities

There is a type of analogy called 'Qiyās ash-Shibh' (the analogy of likeness), which is when a secondary matter is between two different primary matters due it having similarities with both, but it is aligned with the one which it has most in common with, and example of that is: the slave, is he owned like a property making analogy with a free person or is he not owned like an animal?

If we look closely at these two primary issues: one of a free person and the other of an animal we find that the slave is wavering between the two, with respect to him being a person of intellect rewarded and punished and free to marry and divorce, he resembles a free person, and with respects to being bought and sold and used as a security against a debt, made to stand, given as a gift, inherited, not entrusted, used

to guarantee value of something; disposed of, etc. then he resembles an animal, we find that in terms of financial dealings he has most resemblance to an animal.

This type of analogy is weak for the fact that there isn't a suitable common cause between them other than he resembles an animal in most rulings although it is disputed by another primary ruling.

Analogy of opposites

From the types of analogy, is what is called 'Qiyas Al-'Aks' (analogy of opposites): which is to affirm the opposite of a ruling of a primary issue for the secondary issue, due to the presence of the opposing cause in the primary ruling.

And the example of that is given of the saying of the Prophet ﷺ: '...and in (using) your private part (lawfully) is a type of charity.' They said: 'O Messenger of Allah! One of us fulfils his desire and is then rewarded?' He said: 'Do you see that if he does it in a forbidden way he would be punished for it? So if he does it in the right way he is rewarded.'[1] So the Prophet ﷺ affirmed that for the secondary issue – which is having intercourse in the permissible way, is the opposite of the ruling of the original primary ruling which is to have intercourse in the forbidden way, so this if due to the fact of the presence of the opposing cause, by affirming for the secondary issue reward because it permissible, as the case for doing it using forbidden means it carries a penalty.

[1] Narrated by Muslim (1006) book of Zakat, 16 - Chapter: statement that the name of Sadaqah (charity) covers every kind of known good.

CONTRADICTION (AT-TA'ĀRUD)



The definition

At-Ta'ārud linguistically means: to oppose one another, to prevent each other. And technically it means: when two evidences oppose one another.

And the contradiction has four parts:

A) The contradiction is between two general evidences which is of four cases

1. Where they can be combined so that each one can take on a state that does not contradict the other one so in such a case we must combine them.

An example of that is the saying of the Most High to His Prophet ﷺ:

﴿ وَإِنَّكَ لَتَهْدِيٓ إِلَىٰ صِرَٰطٍ مُّسْتَقِيمٍ ﴾

'And indeed, [O Muhammad], you guide to a straight path;' (42:52) and saying:

﴿ إِنَّكَ لَا تَهْدِي مَنْ أَحْبَبْتَ ﴾

'You [O Muhammad] do not guide whom you love.' (28:56)

These two verses are reconciled by the fact that the first verse means guidance, which signifies directing to the right path, and this is affirmed for the Messenger ﷺ. The second verse is intended to mean the ability, which helps to act upon the guidance, and this is only in the hands of Allah and not possessed by the Prophet ﷺ or anyone else.

2. If you cannot reconcile them then the latter is abrogating if the history is known about it so it is to be acted upon instead of the earlier one.

For example, the saying of the Most High concerning the fast:

﴿ فَمَن تَطَوَّعَ خَيْرًا فَهُوَ خَيْرٌ لَّهُۥ ۚ وَأَن تَصُومُوا۟ خَيْرٌ لَّكُمْ ۖ إِن كُنتُمْ تَعْلَمُونَ ﴾

'And whoever volunteers excess - it is better for him. But to fast is best for you, if you only knew.' (2:184)

This verse offers the choice between feeding and fasting with giving preference to fasting, and the saying of the Most High:

﴿ فَمَن شَهِدَ مِنكُمُ ٱلشَّهْرَ فَلْيَصُمْهُ ۖ وَمَن كَانَ مَرِيضًا أَوْ عَلَىٰ سَفَرٍ فَعِدَّةٌ مِّنْ أَيَّامٍ أُخَرَ ﴾

'So whoever sights [the new moon of] the month, let him fast it; and whoever is ill or on a journey - then an equal number of other days,' (2:185) stating the specific time the fast is to be performed for the sick person or traveller for what they have missed. This verse is later so it abrogates the first one as is indicated in the narration

of Salamah Ibn al-Akwa in Bukhari and Muslim and others.[1]

3. If the history is not known then the most likely opinion should be acted upon if there is one.

For example: The saying of the Prophet ﷺ 'Whoever touches his private part then let him make ablution.'[2] And the Prophet was asked about a man who touches his private part, does he have to make wudoo? He said: 'No, it is a part of you.'[3] So the first is given precedence

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[1] Narrated by Bukhari (4507) book of Tafsīr, 26 - chapter: (whosoever witnesses the month from you then let him fast); and Muslim (1145) Book of Fasting, 25 - Chapter: statement abrogation of the verse: **'and those who are able to fast then there is a fidyah'** with the verse: **'whosoever witnesses the month from you then let him fast'.**

[2] Narrated by Abu Dawūd (182); at-Tirmidhi (82); Ibn Majah (481); an-Nisā'i in As-Sugrah (444); and Ahmad (6/406/27334); It was authenticated by Ibn Hibbān (213 – Al-Mawarid) book of Purification, 29 - Chapter: What has come concerning touching the private part.

[Publishers note]

Al Bukhari said: 'It is the most authentic hadith concerning this issue' It is hadith No.68 in Bulugh Al Maram.

Shaykh Uthaymin said: 'Whoever touches his private part then let him make wudu' so (regarding) his saying: 'Whoever', this is general. 'Then let him make wudu' the (letter) lam here is a command, and the basic principle with regard to the command (al amr) is that it is compulsory (wājib)' (Sharh Usūl Min Ilm Al Usūl, pg 593).

[3] Narrated by Abu Dawūd (182), and Tirmidhi (85) and An-Nisā'i in Sugrah (165) and Ibn Mājah (483).

[Publishers note]

Ibn Al Madini said: 'It is better than the hadith of Busra' (that 'Whoever touches his private part then let him make wudu'). It is hadith No. 67 in Bulugh Al Maram of Ibn Hajr.

because it is the more cautious, more oft-narrated, more authenticated, and it is quoted from the source, so it contains an addition in knowledge.

4. If there is no preferred opinion of the two then both should not be acted upon, and no sound example can be found for this.

B) The contradiction occurs between two specific texts, then this also has four cases

1. Both can be reconciled in which case it must be done.

An example being the narration of Jābir ﷺ regarding his description of the Hajj of the Prophet ﷺ, that he prayed Zuhr on the Day of Sacrifice in Makkah[1] and the narration of Ibn Umar ﷺ that the Prophet ﷺ prayed it (Zuhr) in Mina[2], these two narrations are reconciled by the fact that the Prophet ﷺ prayed in Makkah, and when he went out to Mina and prayed again with his Companions.

The hadith was declared da'if (weak) by: Ash Shāfi'i, Abu Hātim, Abu Zur'ah, Ad Daraqutni, Al Bayhaqi and Ibn Al Jawzi, refer to Tawdeeh Al Ahkām Min Bulugh Al Marām of Shaykh Al Basām.

[1] Narrated by Muslim (1218) in the long narration of Jabir, book of Hajj, 19 - Chapter: Hajj of the Prophet ﷺ.

[2] Bukhari (1653) Book of Hajj, 83 – Chapter: Where to pray Zuhr on the day of Tarweyah (the 8th day of Dhul-Hijjah); and Muslim (1309) Book of Hajj, 58 - chapter: Desirability of making tawāf on the Day of Sacrifice (10th Dhul-Hijjah) from the narration of Anas. It is also narrated by Muslim (1308) from the narration of Ibn 'Umar.

2. If you cannot reconcile them, then the second abrogates the first if the history of it is known.

An example of that is the saying of the Most High:

﴿ يَٰٓأَيُّهَا ٱلنَّبِيُّ إِنَّآ أَحْلَلْنَا لَكَ أَزْوَٰجَكَ ٱلَّٰتِيٓ ءَاتَيْتَ أُجُورَهُنَّ وَمَا مَلَكَتْ يَمِينُكَ مِمَّآ أَفَآءَ ٱللَّهُ عَلَيْكَ وَبَنَاتِ عَمِّكَ وَبَنَاتِ عَمَّٰتِكَ وَبَنَاتِ خَالِكَ وَبَنَاتِ خَٰلَٰتِكَ ٱلَّٰتِي هَاجَرْنَ مَعَكَ وَٱمْرَأَةً مُّؤْمِنَةً إِن وَهَبَتْ نَفْسَهَا لِلنَّبِيِّ إِنْ أَرَادَ ٱلنَّبِيُّ أَن يَسْتَنكِحَهَا خَالِصَةً لَّكَ مِن دُونِ ٱلْمُؤْمِنِينَ ۗ قَدْ عَلِمْنَا مَا فَرَضْنَا عَلَيْهِمْ فِيٓ أَزْوَٰجِهِمْ وَمَا مَلَكَتْ أَيْمَٰنُهُمْ لِكَيْلَا يَكُونَ عَلَيْكَ حَرَجٌ ۗ وَكَانَ ٱللَّهُ غَفُورًا رَّحِيمًا ﴾

'O Prophet, indeed We have made lawful to you your wives to whom you have given their due compensation and those your right hand possesses from what Allah has returned to you [of captives] and the daughters of your paternal uncles and the daughters of your paternal aunts;' (33:50) and His saying:

﴿ لَّا يَحِلُّ لَكَ ٱلنِّسَآءُ مِنۢ بَعْدُ وَلَآ أَن تَبَدَّلَ بِهِنَّ مِنْ أَزْوَٰجٍ وَلَوْ أَعْجَبَكَ حُسْنُهُنَّ إِلَّا مَا مَلَكَتْ يَمِينُكَ ۗ وَكَانَ ٱللَّهُ عَلَىٰ كُلِّ شَيْءٍ رَّقِيبًا ﴾

'Not lawful to you, [O Muhammad], are [any additional] women after [this], nor [is it] for you to exchange them for [other] wives, even if their beauty were to please you.' (33:52) So the second verse abrogates the first based on one view.

3. If there isn't any abrogation, then the more preferred of the two should be acted upon if there is one found.

Example: The narration of Maymūnah, that the Prophet ﷺ married her while he was not in the state of Ihrām[1]. And the narration of Ibn Abbās, that the Prophet ﷺ married her while being in a state of Ihrām[2]. The most correct opinion is the first because Maymūnah is the person telling the story so she is more aware of what happened. Her narration is supported by the other narration of Abu Rafi ؓ that the Prophet ﷺ married her while he was not in the state of Ihrām and he said: 'I was the messenger between them.'[3]

4. If there is no preferred opinion then both should not be acted upon, and no sound example of this can be found.

C) The contradiction is between a specific text and a general text, so the specific will make the general also specific

An example of which is the saying of the Prophet ﷺ: 'A tenth of what the sky waters' and his saying: 'Anything less than five awsāq (type of measurement) is not Zakat (charity).' So the first narration is made specific with the

[1] Narrated by Muslim (1411) narrated from Maymūnah: Book of Marriage, 5 - chapter: Dislike of marrying one in the state of Ihrām or proposing to him (1410) from the narration of Ibn Abbas. Ibn Abd al-Barr said (3/152) in Tamhīd: 'The narration of Maymūnah is mutawatir.'

[2] Narrated by Bukhari (5114) book of Nakih, 30 - chapter: Marriage of the one in the state of Ihrām; and Muslim (1410) Book of Marriage chapter 5 - chapter: Prohibition of Marrying the one in the state of Ihrām.

[3] Narrated Ibn Hibbān (1272 – Al-Mawarid) Book of Marriage / 14 - what has come with regards to marrying while in the state of Ihrām; Ahmed (6/392/27241); and Tirmidhi (841) book of Hajj, 23 - Chapter: Dislike of marrying off someone in the state of Ihrām and he said Hasan. Al-Albani declared it weak.

second and zakat is not obligatory for anything not reaching five awsāq.

D) That the discrepancy between two texts is that one of them is more general in one way than the other, and more specific in another way, and this has three cases:

1. The evidence makes specific the generality of one of them so it becomes specific. Example: The saying of the Most High:

﴿ وَٱلَّذِينَ يُتَوَفَّوْنَ مِنكُمْ وَيَذَرُونَ أَزْوَٰجًا يَتَرَبَّصْنَ بِأَنفُسِهِنَّ أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا ﴾

'And those who are taken in death among you and leave wives behind - they, [the wives, shall] wait four months and ten [days];' (2:234) and saying:

﴿ وَأُوْلَٰتُ ٱلْأَحْمَالِ أَجَلُهُنَّ أَن يَضَعْنَ حَمْلَهُنَّ ﴾

'And for those who are pregnant, their term is until they give birth.' (65:4)

The first verse is specific about its mention of widows but general when it comes to pregnant women. The second verse is specific about pregnant women but general about widows so the proof shows that the generality of the first one is made specific by the second one. Subiya Al-Aslamiah gave birth after her husband died by a few nights, and the Prophet ﷺ allowed her to

get married[1], based on this the Idda (time period a woman has to wait before she can marry again) for the pregnant woman is when she gives birth whether she is a widow or otherwise.

2. If the evidence does make specific the generality of either one of the texts then the most preferred view is acted upon.

For example, the saying of the Prophet ﷺ: 'If one of you enters the mosque let him not sit down until he prays two rak'ah;' and his saying: 'There is no prayer after Fajr until the sun rises[2] and no prayer after Asr until the sun goes down.'[3]

The first is specific regarding the two rak'ah that are prayed before sitting down in a masjid, but general about the time. The second is specific about the time but general about the type of prayer, which includes the tahiyatul masjid (two rak'ah that are prayed before sitting down in a masjid) and other than that, but the most preferred opinion is to make specific the generality of the second with the first, so it is permissible to pray tahiyahtul Masjid during the times that are prohibited

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[1] Bukhari (5318) Book of divorce, 39 - chapter: (and those pregnant women their time (end of their 'idda period) is when they give birth); and Muslim (1485) Book of divorce, 8 – Chapter: Expiration of the widow's waiting period when she gives birth.

[2] Bukhari (444) Book of prayer, 60 – Chapter: If someone enters the masjid then let him pray two rak'ahs; and Muslim (714) book of prayer of the travellers and shortening it, 5 - Chapter: Permissibility of combining two prayers while travelling.

[3] Bukhari (586) Book of prayer times, chapter: 31 - Chapter: Not to pray before sunset; and Muslim (827) book of prayer of the travellers and shortening it, 51 - Chapter: Times in which the prayer is forbidden.

for general prayers to be prayed therein. We prefer this opinion because making specific the generality of the second has been confirmed for other prayers besides the tahiyahtul masjid such as making up the missed obligatory prayers, or praying again in congregation, so the generality has a weak position.

3. However it is not possible for there to be a contradiction between texts of the same issue in a way that the cannot be reconciled, or that one of them is abrogating the other, or that one cannot be given preference over the other because the text do not contradict each other. The Messenger ﷺ has made things perfectly clear and propagated (the message) so, it may be that the Mujtahid fell short in his understanding of the texts, and Allah knows best.

The order between the evidences

When the evidences mentioned previously (the Quran, Sunnah, consensus and analogy) agree on a ruling, or one of them does without contradicting the other sources of evidences, then affirming it is compulsory. If there is a contradiction and it is possible to reconcile them then that is what must be done. If that is not the case then the abrogating text should be acted upon if the conditions are met. If all of that is not possible then one (text) must be given preference.

From the Qur'an and Sunnah, the following should be given preference:

1. The apparent (text).
2. The apparent (text) over the one that is Mu'awwal (interpreted)
3. That which is actually stated (or spoken) over what is understood.
4. The affirming text over the negating one.
5. The one narrating the primary source and what has been maintained, because he has more knowledge.
6. The preserved general (text) (where the generality has not been made specific) over the general, which is not mahfūz (preserved).
7. Whichever has more of the descriptions of being accepted than the other one.
8. The person of the story (in question) over someone else.

From consensus: the qati' (clear cut) is given precedence over the Dhanni (not certain).

From analogy: the clear (text) over the hidden (text).

THE MUFTI & THE MUSTAFTI



The Mufti is the one who has knowledge of the legal rulings.
The Mustafti is a questioner that asks for a legal ruling.

The conditions of fatwa

The requirements for the permissibility of a fatwa, which, if they are not met then the (correct) fatwa will not be obtained:

1. The Mufti have certainty of knowledge of a judgment, or overwhelming notion, otherwise he must withhold from issuing any fatwa.
2. The question must fully be understood to be able to judge him, because judging something is part of conceptualising it.

So when you found difficulty with what the questioner has asked, and if it needs further explaining, more details should be sought, or that it is mentioned in the answer itself. So is someone dies and leaves behind a daughter, a brother and an uncle. Ask about the brother was he from the mother or not? Or make the distinction in the answer. So if he was from the mother then there is nothing for him (in inheritance) and the remainder after what belongs to the daughter is for the uncle, and if he

is from another mother, then the what's left after the daughter takes what's hers, is for him.

3. He must be of a calm mind, giving him time to think about the issue and implement the legal evidences, so he should not issue fatwas while in the state of being angry or preoccupied or even bored.

The following conditions have been stipulated for a fatwa to be a necessary:

1. The incident in question has actually taken place; if it hasn't then it is not obligatory for a fatwa to be issued. However a question is asked for the purpose of seeking knowledge then it is not permissible to hide it, rather it must be answered whenever it is asked in any condition.

2. That it is not known from the condition of the questioner that he intends by the questioning to annoy or look for answers that allow him a free pass (to do what he wants anyway) or that he is looking to cause the opinions of the scholars to clash with each other or any other evil intent. If that is the case then no fatwa needs to be given to him.

3. That as a result of the fatwa more harm is caused, if such is the case then it is imperative to withhold from issuing a ruling so as to avoid the greater harm of the two evils.

What the questioner is obliged to do

Two things are required from the questioner:

1. That he seeks from his questioning the truth and to act upon it, and not seeking a fatwa he wants or leaving the mufti unable to answer and other such improper intent.
2. That he asks only those who he knows or he firmly holds to be from the people capable of giving a fatwa. He should choose the mufti that has most knowledge and piety[1] it is even said that, that is obligatory.

[1] [Publishers note] Shaykh Uthaymīn said: 'And that is because the scholars are of 3 divisions: The scholar of the religion (millah), the scholar of the nation (Ammah) and the scholar of the state (dawlah). So the scholar of the religion, is the one who follows whatever the Islamic religion gives evidence for and shows, regardless of whether the ruler or the opinion of the nation agrees with it or not.

And the scholar of the state is the one who looks to the desire of the state and that which it wants. [The Shaykh gave the example of those who say that ribā in investments is permissible, rather obligatory (wājib) as it boosts the economy of a land. This inspite of Allah saying: **"O you who believe! Be afraid of Allah and give up what remains (due to you) from Riba (usury) (from now onward), if you are (really) believers. And if you do not do it, then take a notice of war from Allah and His Messenger but if you repent, you shall have your capital sums. Deal not unjustly (by asking more than your capital sums), and you shall not be dealt with unjustly (by receiving less than your capital sums)".** (2:279)'

And the scholar of the nation is the one who looks to what the nation is upon and passes ruling with that which is in agreement with the desires' [The Shaykh gave an example of them not wanting to say that it is not permissible for a man to wear his garment below his ankles, and because all of the people do it he is light on them and says: It is halal] (Sharh Usūl Min 'Ilm Al Usūl, pg 668-669, abbreviated).

AL-IJTIHĀD



The definition

Ijtihad linguistically means: exerting full effort in trying to understand a difficult issue.

And technically: to make an effort to understand a legal ruling. And the Mujtahid is the one who exert his utmost to do so.

Conditions of Ijtihad:

Ijtihad has conditions, including the following:

1. That the Mujtahid knows the legal evidences he needs in his effort to make ijtihad such as the verses pertaining to rulings and their corresponding narrations.
2. To know the authenticity of the hadith and their weaknesses such as knowing the chains of narration and its narrators, etc.
3. To know the abrogating and the abrogated and the instances of consensus so to avoid ruling with something abrogated or oppose a consensus.
4. To know from the evidence what differs with a ruling from takhsīs or taqyīd and so on so as to avoid ruling something that opposes it.

5. To know the language and principals of fiqh which is connected to what words signify such as 'Ām, Khās, Mutlaq, Muqayyid, Mujmal, Mubayyin, etc. so he can rule according to what those terms necessitate.
6. To have the ability to be able to derive rulings from the evidences.

And Ijtihad can be categorised, so it can be in a particular chapter from the chapters of knowledge or a certain problem.

What is necessary for the Mujtahid

What is incumbent on the Mujtahid is that he exerts his efforts in trying to find the truth, then he rules with what is clear to him and if he gets it right then he has two rewards. A reward for his effort and a reward for him getting it right, because reaching the truth is a manifestation of it and acting according to it. If he errs then he has just one reward and the mistake is forgiven according to the saying of the Prophet ﷺ: 'When a judge gives a ruling and he tries his best (to find the truth) then he gets it right he has two rewards, and if he judges and gets it wrong then he has only one reward.'[1]

If a ruling does not appear to him then he must hold back and it is then permissible for him to blind follow because of the necessity.

[1] Narrated by Bukhari (7352) Book of Holding Steadfast, 21 - Chapter: Reward of the ruler when he makes Ijtihād and errs or is correct; and Muslim (1716) book of judgements, 6 - Chapter: Explanation of the reward of the ruler if he worked hard, hitting (right) or wrong.

Blind Following (Taqlīd)



The definition

Taqlīd linguistically means: to put something around the neck encompassing it like a qalladah (rope around the neck). And technically it means to follow the saying of someone whose statements are not an evidence.

What is excluded from our words 'whose statements are not a evidence': is following the Prophet[1] ﷺ, and following the people of consensus, and following the Companions, if we were to say that their statements are an evidence[2], then following any of that would not be called taqlīd, because it is

[1] [Publishers note] The Shaykh also said: 'The basis of taqlid is the acceptance of the saying of the speaker without evidence and our acceptance of the sayings of the Messenger of Allah is acceptance with evidence. So due to this it should be called following or imitation (ittibā') as the Most High says: **'Say: If you love Allah, then follow me (attabi'ooni)'** (3:31)' (Sharh Aqīdah As Safariniyyah, pg 739)

[2] [Publishers note] The Shaykh also said: 'Many of the people of knowledge are of the view that the saying of a companion is a proof because the companion is closer to hitting/reaching what is correct than others' (Sharh Usūl Min Ilm Al Usūl, pg 684)

Shaykh Muqbil said: 'The statement of a Sahabi, in truth, is not a proof; however, the statements of the Sahaba aid a firm understanding of the book and the prophetic example. The statements of the Tabi'un (second generation of Muslims) likewise aid a firm understanding of the book and the prophetic example. The statements of the Tabi' ut-Tabi'in (third generation of Muslims) likewise aid a firm understanding of the book and the prophetic example. The statements of the jurists from their books are also beneficial. As for (religiously binding) proof, then there is no proof other than the book of God and the example of His Messenger.'

following the evidence, however sometimes it is refer to as taqlīd figuratively and for more inclusiveness.

Situations of taqlīd

Taqlīd can occur in two situations:

1. That the blind follower be a common person who is not able to know the ruling for himself so for him it is compulsory to blind follow due to the statement of the Most High:

﴿ فَسْـَٔلُوٓا۟ أَهْلَ ٱلذِّكْرِ إِن كُنتُمْ لَا تَعْلَمُونَ ﴾

'Ask the people of the Reminder if you do not know.' (16:43).

He follows the best one he can find in terms of knowledge and piety, and if they are similar then he can simply choose.

2. The Mujtahid is confronted with an incident that requires immediate response, and he is not able to look into the issue, then he may blindly follow someone in that instance. Some have laid down a condition for the permissibility of blind following that it should not be in the principals of the religion which are to be believed in, because in beliefs we must have resolve, and blind following does not give that certainty only conjecture.

The most correct opinion however is that this is not a condition due to the generality of the saying of the Most High:

﴿ فَسْـَٔلُوٓا۟ أَهْلَ ٱلذِّكْرِ إِن كُنتُمْ لَا تَعْلَمُونَ ﴾

'Ask the people of the Reminder if you do not know.' (16:43)

The verse is in context of affirming the message and that is from the principals of the religion and that the commoner is unable to know the truth with its proofs by himself so if he has an unable then there is nothing left but blind following due to the saying of the Most High:

﴿ فَٱتَّقُوا۟ ٱللَّهَ مَا ٱسْتَطَعْتُمْ ﴾

'Fear Allah as much as you are able' (64:16).

Types of taqlīd

Blind following is of two types: general and specific:

1. **The general:** To commit to a certain school of thought taking the allowances and decisions in all matter of his religion.

The scholars have differed in this regard, so some say he must do so due to his inability of Ijtihad in it, some of them said that it is obligatory for him due to the lack of Ijtihad amongst the later generations[1], and some of

[1] [Publishers note] 'So some of the scholars say it is compulsory for people to blindly follow in a general sense. So the person takes a madhab from the madhahib and adheres to it because ijtihād in the later times is lacking. And this is, without doubt a saying that is from the falsest of falsehoods'...til his words: 'The Quran and Sunnah is guidance and a clarification for mankind since the sending of the Messenger and the revelation of this guidance is until the last hour. The Messenger ﷺ said: **'I have left that after which you will not go astray if you cling to it, the Book of Allah.'** (Muslim, No. 1218) (Sharh Usūl Min Ilm Al Usūl, pg 689)

the scholars say that it is forbidden because it is following someone other than the Prophet ﷺ without any restrictions.

Shaykh al-Islam Ibn Taymiyyah said: 'The statement that it is obligatory to obey someone other than the Prophet ﷺ in all the commands and prohibitions, is against the consensus, and its permissibility is what it is.'

And he said: 'Whoever adheres to a particular school of thought then he opposes it not out of blind following another scholar that has given him a fatwa, nor using an evidence that necessitates that or without a legal excuse which he requires a solution for what he has done then he is a follower of his desires, a doer of something forbidden without a legal excuse this is evil; as for something becoming clear to him which gives preference to one saying over another either by detailed evidences if he knows them and understands them, or he sees one of the two men more knowledgeable than the other and more pious in what he says so he can return from one saying to another, the like of this is permissible rather obligatory and Imam Ahmad has written about this.'[1]

2. Specific: to take the words given in a particular case; it is permissible if he is unable to find out the truth through making his own Ijtihad, whether that is a real inability, or he had the ability but it would involve great hardship.

[1] [Publishers note] This saying of Ibn Taymiyah is in: 'Al-Fatawā Al-Kubra': 4/625.

Blind following of fatwas

Allah says:

﴿ فَسْـَٔلُوٓاْ أَهْلَ ٱلذِّكْرِ إِن كُنتُمْ لَا تَعْلَمُونَ ﴾

'Ask the people of the Remembrance if you do not know.'
(16:43)

And the people of the Reminder are the scholars, and the blind followers are not from the people of knowledge who are followed, rather they are follower of others.

Abu 'Umar bin Abdul-Barr and others said: 'the people are unanimously agreed that the blind follower is not of the scholars, and that knowledge is to know the truth with its evidences.' Ibn al-Qayyim said: 'This is as Abu 'Umar said; the people do not disagree that knowledge is obtained from the evidence, as for without the evidence then that is blind following'[1] then Ibn ul Qayyim mentioned the permissibility

[1] [Publishers note] **Point of benefit:** Imam Ash Shawkānī said: 'I say that which is obligatory on the one who is lacking in the sciences is to ask someone whom he trusts in his religion and in his knowledge of the texts of the Book and the Sunnah concerning the affairs he must know about such as his worship, his dealings and all other issues which may come up.

'He should say to the one he asks, "Inform me of the of the most authentic evidences you know of concerning that so that I may act on it" **and this is not taqlid in the least bit, for he did not ask him about his opinion, rather he asked him about his narrations.** However, since he does not understand the words of the Book and the Sunnah, it is obligatory upon him to ask one who does understand them, so in that way he is acting upon the Book and Sunnah by means of the one he asked.

The one who acquires knowledge of the sciences we mentioned is able to act upon them without needing an intermediary to help him understand. Such a person is called a mujtahid, whereas the layman who relies upon asking is neither a muqallid nor a mujtahid, rather he is acting upon the evidence by means of the mujtahid who assists him in understanding its meanings. Most of the salaf from the companions, their

of the fatwa through blind following according to three sayings:

1. 'It is not permissible to give a fatwa with blind following because it is not knowledge and the fatwa without knowledge is forbidden and this is the saying of most of the Companions[1] and the majority of the Shāfi'īyah.

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followers and their followers who were the best of generations were from this level of people, and there is no doubt that the scholars were extremely few in comparison to the non-scholars. Whoever says there is no intermediary stage between the muqallid and the mujtahid, we say to him, "Most of the pious predecessors were that way: neither muqallids nor mujtahids".

As for their not being muqallids, it is because it has never been related from any of the companions that he performed taqlid of one of the famous scholars of the companions in particular, rather all of the non-scholars amongst them would seek out their scholars to narrate them the textual evidences and act upon that. The same is true of those after them from the tabi'in and their followers.

Whoever says that all of the companions were mujtahid scholars and all of the tabi'in were mujtahid scholars, then he has fabricated a great lie, which no knowledgeable person could accept. So these madhabs and these different manifestations of taqlid which take the form of following someone else's opinion without any evidence did not come into being until after the best generations died out.

The best of affairs are those, which have already preceded on guidance. And the worst of affairs are the newly introduced innovations.

If that which was broad enough for the non-scholar in the ages of the salaf is not broad enough for him in the ages of the khalaf, then may Allah not broaden things for him' (Al Badr at-Tali (2/89-90). See 'The biography of Imam Shawkānī', Darussalam.

[1] [Publishers note] Shaykh Uthaymīn said: Meaning the companions (Ashāb) of the Hanbalis, because Ibn Al Qayyim ﷺ, was from the Hanbalis. So when it is said: 'Al Ashāb' then it is whoever follows a specific madhab, thus the meaning of ashāb is: the scholars of that madhab. (Sharh Usūl Min 'Ilm Al Usūl, pg 698)

2. It is permissible with regard to himself, but not permissible for him to blindly follow what others have given a fatwa for (themselves)[1]

3. It is permissible when needed, and in the absence of a scholar who is a Mujathid, and that is the most correct of these sayings and it should be acted upon.'[2]

And with this we complete what we intended to write in this concise reminder, we ask Allah to inspire us towards righteousness in speech and action and to crown our actions with success.

Indeed He is the Most Generous, and blessings and peace be upon our Prophet Muhammad and his family.

[1] [Publishers note] The Shaykh said: Meaning, it is permissible for the blind follower to act according to the opinion of the one he blindly follows concerning himself. However, he is not to give a verdict with it to other than him, and this is not correct because that which is permissible for your self is permissible for other than you, and likewise the opposite with regard to the opposite (unlawful with unlawful).

However we say, indeed the blind follower if he follows a blind follower, he is not following the fatwa himself, rather his blind following is due to the individual. So he is not considered a mufti or one who is a follower of knowledge, and he himself is regarded as only a blind follower.' (Sharh Usūl Min Ilm Al Usūl, pg 698)

[2] [Publishers note] 'So it is permissible that we seek the verdict of a blind follower when we cannot find other than him. This is because the verdict of a blind follower is better than ignorance, without doubt. And that he narrates the saying of a mujtahid imam and relies on it is better than ignorance, and this is the most correct of the sayings. And Allah, the most High knows best' (Sharh Usūl Min Ilm Al Usūl, pg 699)

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11. Zād ul-Ma'ad: Ibn al-Qayyim.
12. I'lāmul Muwaqi'īn: Ibn al-Qayyim.

REVIEW QUESTIONS



Jurisprudence

1. Define Jurisprudence (Usūlul Fiqh) as two individual words, and explain the meaning of Fiqh linguistically and technically paying close attention to the definition.
2. Define Jurisprudence (Usūlul Fiqh) as being a title for this particular art form, and explain the definition.
3. What is the benefit of the principles of jurisprudence, and who was the first person to bring it together as an independent science.

Rulings

4. Define linguistically Ahkām (rulings) and technically explaining the intricacies of the definition. What are Ahkām At-Taklefīyah? - Define both of them noting the definition. - What are the Ahkām Alwadhiyah? - Define both of them with examples. - What is the ruling of a fasid act in worship, contracts and conditions, what is the evidence? - What are the circumstances where fasid and sahih are different?

Knowledge

5. What is knowledge and give an example? Mention the definition. - Mention the difference between simple ignorance and compounded ignorance and give a clear example showing it. - What is Dhan? And what is the difference between it and shakk

and wahm? - Indicate the categories of knowledge representing each category with an example.

Speech

6. Define speech linguistically and technically, and explain the least required to compose it. What is the word, and how is it divided? - What kinds of nouns are they, and mention the types with examples. - Define verbs and mention divisions with examples. - Mention what you know of the meaning of the following characters with examples: waw, Fa, lam of jarrah.

Parts of speech

7. Define al-Khabar and Al-Insha. - Mention the types of khabar with regard to the Mukhbar bihi, speech may be khabar or insha depending on two considerations and can be khabar with the meaning of insha and vice versa, give examples for all, and explain.

Truth and metaphor

8. Mention parts of speech as with regards it usage defining each type explaining the definition. - How many types is the truth divided into? - What is the benefit of knowing those types? - What is the condition of using a word with its figurative meaning?
9. What is the difference between metonym and the psychological metaphor? Give examples for both making it clear their differences. - Why have I mentioned Truth and Metaphor in jurisprudence?

Command (al-Amr)

10. Define command and explain the definition carefully. - What formats of command is there give examples, does the request for an action benefit from it? - What does the wording of the command require when it is left open-ended? Mention the evidence indicating the significance of the evidence.

11. Does it exclude anything? Explain what you say with proof.

When the implementing of a command is prevented due to something what is the ruling of that thing and give an example.

Prohibition (nahy)

12. Define Prohibition and explain precisely the definition, and can prohibition be understood with other than its own wording? And with what? And what necessitates it?

13. Mention the rule of the school of thought (hanbali) concerning that which is prohibited and does the prohibition ever mean anything other than a prohibition? Give examples. Who does commands and prohibitions apply to and who does it not?

14. Who is the Mukallaf? Can the non-Muslim be a mukallaf, and if he does a good action is it valid? What is the evidence? - Does he have to make up what he missed while being a non-Muslim? What is the evidence?

Mawāni' at-takālīf

15. What are the constraints of being burdened with the obligations of the legislation? What is the evidence? Does constraints of being burdened with the obligations of the legislation also apply to the rights of the creation?

General (Al-Ām)

16. Define linguistically and technically the term 'Al-Ām'. And explain precisely the definition, and what are the formats of Al-Ām? Give examples for it. Does the 'al' necessitate generality or does it need explaining? Explain with examples.
What is the ruling on acting upon the general texts and if the text has come for a special reason does it remain specific or can the general meaning afforded by the wording be taken? Explain your answer.

Specific (Khās)

17. Define linguistically and technically the term –'Khas', give examples for it. What does it mean to make something specific and what are the types of evidences for it?
What is the exception? Mention what you know of the conditions also the difference of opinion and the best opinion with evidence.
- What is meant by 'Shart' in which this 'takhsīs' takes place? What is the description of 'Al-Mukhasisah'? Give examples.

18. What are the 'al-mukasisat al-munfasilah' and what is the argument of those that do not agree with takhsīs of al-hass (touch) and aql (reason)? Does the Sunnah make the Qur'an specific in places and vice versa? Give examples. Give two examples, one of the Qur'an being made specific by consensus and the other of the Sunnah being made specific my analogy.

Al-Mutlaq and Al-Muqayad

19. What is the meaning of 'absolute'? Define Al-Mutlaq. If we have two texts one of absolute and the other Muqayad which one do we act on?
Give examples for what you say.

Al-Mujmal and the al-Mubayyin

20. Define linguistically and technically with examples Al-mujmal. - What is mubayyin and how do we understand it? Give examples. The Apparent and the interpreted

21. What is 'dhahir' linguistically and technically and its nuances? - What is the ruling of acting upon what is apparent? - What is the interpreted? - How many types of 'Muawwal' are they? Give examples.

Abrogation

22. Define linguistically and technically and explain the precise meanings of the definition, and prevent abrogation from being the case? Give reasons to what you say. What are the conditions of abrogation?

23. Mention the types of abrogation with regards to the abrogated text and with regards to the abrogating text mentioning examples for each type. What is the wisdom of abrogation? - And what is the evidence it is permissible intellectually and its occurrence in the legislation?

Al-Akhbār

24. Define news linguistically and technically. - Indicate the types of the actions of the Prophet, peace be upon him indicating the ruling of each type with examples, what is the ruling of his tacit approval? - And if something occurred during his time that he was aware of, what is the ruling of that and what is the evidence?

25. Mention the types of news with regards to who it is connected to and with regards its different paths. Who is a companion and can his saying be used as an evidence? - Is the

Khabar Ahād (news received through a single narrator in each part of the chain of the narration) considered as an evidence? - What is meant by: to carry hadīth and what are the different wording for discharging it and what is 'Ijazah'?

Consensus (Ijmā')

26. Define consensus linguistically and technically and mention the precise meanings within the definition. - Is the consensus a proof? - What is the evidence? - What are the types of consensus? - What is the consensus that the one who is opposing it falls into disbelief? - What is the correct view of the possibility of the consensus of Dhanni? - Mention what you know of the conditions of consensus does it stipulate that time be extinct and what is the evidence?

Analogy

27. Define analogy linguistically and technically with an explanation of the definition. - What are the pillars of analogy? - Is analogy a legitimate (type of) evidence and what is the evidence for that?

28. What are the conditions of analogy? Give examples of every type of analogy that is corrupt due to the absence of a condition (that needs to be met).

Mention the types of analogy giving examples of each type. - Define both analogy of similarity and analogy of opposites and give examples for both.

Contradiction

29. What is contradiction and what are its types and how many cases are they in every type? Give examples.

The order (of priority) amongst the evidences

30. When the evidences (seemingly) contradict one another what is the ruling? - And what should be given priority from the texts of the Quran and Sunnah and consensus and analogy (Qiyās)?

Mufti and the Questioner

31. Who is the Mufti? Who is the mustafti (one seeking fatwa)? What are the conditions of the permissibility of Fatwa and the conditions for it to be obligatory? Mention what you know of it. - Who needs to stick to being a questioner (mustafty) and what should he do?

Ijtihad

32. Define linguistically and technically the meaning of 'Mujtahid', and who is a 'Mujtahid'? - And mention what you know of the conditions of ijtihad. Can it be divided? - What is the ruling of the error of the Mujtahid?

Taqlīd (blind following)

33. Define taqlīd linguistically and technically, and when should taqlīd take place? Does the permissibility of taqlīd depend on the issue being from the non-essential issues and why? What is the most preferred view, and what evidence is there for it being the preferred view?

34. Mention the types of taqlīd and the ruling of every type, and is the muqallid a scholar and what is the ruling of his fatwa?

FOUNDATIONS OF THE KNOWLEDGE OF USUL

((ومن يرد الله به خيراً يفقه في الدين))

The Prophet ﷺ said: *"If Allah intends good for anybody then He gives him understanding (fiqh) in the deen."*

It is not possible for the one with understanding (faqīh) to be without usūl al-fiqh or for the usūli (the one who knows usūl al-fiqh) to do without fiqh if he wants to have understanding (of the deen). (Shaykh Al-Uthaymīn, Kitāb Al-'Ilm)

This book is the first of the Usūl Series, which consists of various books on the Principles (Usūl) of the religion.



